

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

MATT BRODY, on behalf of himself §  
and all others similarly situated, §  
Plaintiffs, § Civil Action No. 3:04-CV-1931-K  
§ ECF  
vs. §  
§  
ZIX CORPORATION, RONALD A. §  
WOESSNER, JOHN A. RYAN, §  
DANIEL S. NUTKIS, STEVE M. YORK §  
and DENNIS F. HEATHCOTE, §  
Defendants. §

APPENDIX IN SUPPORT OF PLAINTIFF'S MOTION FOR CLASS CERTIFICATION

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Dated: April 13, 2007

Respectfully submitted,

**CLAXTON & HILL**

s/Roger F. Claxton

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 13th day of April, 2007, I electronically filed the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. The electronic case filing system sent a "Notice of Electronic Filing" to the following attorneys of record who have consented in writing to accept this notice as service of this document by electronic means:

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s/Roger F. Claxton  
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# EXHIBIT 1

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

MATT BRODY, on behalf of himself and all	:	Civ. Action No. 3:04-CV-1931-K
others similarly situated,	:	
	:	
Plaintiff,	:	
	:	
vs.	:	
	:	
ZIX CORPORATION, RONALD A. WOESSNER,	:	
JOHN A. RYAN, DANIEL S. NUTKIS,	:	
STEVE M. YORK and DENNIS F.	:	
HEATHCOTE	:	
Defendants.	:	
	:	

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**DECLARATION OF SCOTT D. HAKALA, PH.D, CFA  
REGARDING MARKET EFFICIENCY**

**I. Background and Qualifications of the Expert**

1. I am a director of CBIZ Valuation Group, LLC, a national business valuation and consulting firm that operates as a wholly owned subsidiary of CBIZ, Inc., a publicly traded business services firm (NYSE: CBZ). CBIZ Valuation Group is one of the largest business valuation and consulting firms in the United States with offices in Dallas, Chicago, Atlanta, Milwaukee, St. Louis and Princeton (New Jersey). CBIZ Valuation Group employs approximately 100 individuals providing business valuation services to public and private companies.

2. I received a Doctor of Philosophy degree in Economics and a Bachelor's degree in Economics from the University of Minnesota. I have earned the professional designation of Chartered Financial Analyst, awarded by the Association for Investment Management and Research. I have taught courses on asset pricing and market efficiency at the doctorate (Ph.D.) level in a Ph.D. granting institution. In addition, I have served as a consultant and expert witness on numerous occasions regarding economic issues similar to those in this litigation. Examples of cases where my testimony regarding market efficiency was considered by courts at the class certification stage include *In re Broadcom Securities Litigation* (Central District of California; October 2003) and *In re Xcelera.com Securities Litigation* (District of Massachusetts, opinion September 2004; US First Circuit Court of Appeals, opinion December 13, 2005). A detailed summary of my qualifications, including prior testimony and articles, is provided on the curriculum vitae attached hereto as Exhibit A.

3. Plaintiffs are being charged fees for my services in this engagement based on my hourly billing rate of \$525 per hour. I have received assistance from other staff employed by CBIZ Valuation Group.

## II. Information Considered

4. My opinions are based on my professional experience, as well as a thorough review of a substantial amount of available materials, including:

(a) The *Consolidated Amended Class Action Complaint for Violations of Federal Securities Laws* ("Complaint") in this case;

- (b) Memorandum opinion and order, regarding the Court's Order on the Motions to Dismiss dated September 26, 2006;
- (c) Securities filings of Zix Corporation. ("Zix" or the Company) with the Securities and Exchange Commission (SEC) from February 2003 through October 2005;
- (d) Published news articles and press releases and other public news regarding Zix from October 30, 2002, through May 4, 2005, as found on Factiva, LexisNexis and Bloomberg, L.P. databases;
- (e) Analysts' reports as identified or provided in the period from January 10, 2004, through March 15, 2005, as provided by Thomson Research;
- (f) Institutional trade data from September 30, 2002, through March 31, 2005, provided by Thomson Analytical Research;
- (g) Publicly available financial information and public trading price information on Zix, market indices and similar public companies as found on Bloomberg L.P.; and
- (h) Various academic texts and published articles as cited in the text.

### **III. Summary of the Analyses and Conclusions**

5. After reviewing the information listed in paragraph 4, I find that the market for Zix's common shares was efficient in that the market rapidly reacted to and reflected all public information in the share price during the Class Period.<sup>1</sup> I performed a detailed,

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<sup>1</sup> While there are a variety of academic and legal references one might refer to providing definitions consistent with the definition provided, a good summary of the practical concept of market efficiency consistent with my understanding is set forth in Damodaran, *Investment Valuation: Tools and Techniques for Determining the Value of Any Asset*, Second Edition, 2002, pp. 112-116. A summary of the issue of market efficiency may be found in two decisions by the United States Court of Appeals for the First Circuit

integrated event study that found that most of the movements in the stock price of Zix over time are explained by a combination of company-specific, industry-specific and market factors (or events). The event study found that there were demonstrable dates when statements by the Defendants cited in the Complaint affected the market price of Zix and/or facilitated the inflation in Zix's share price. Additionally, the event study found that various partially corrective events were significant in explaining the decline in Zix's share price during and in the days immediately following the proposed Class Period. Thus, it is possible to develop a consistent model of damages that may be used to estimate damages on a per share basis and to allocate damages across purchasers filing proofs of claim.

6. In assessing the type of market efficiency required for the fraud-on-the-market presumption to apply, I relied on, among other things, *Cammer v. Bloom*, 711 F. Supp. 1264 (D.N.J. 1989). Consistent with the framework outlined in that case, I found strong evidence for the level of market efficiency required for class certification.

(a) As shown in Exhibit C, there was more than adequate trading volume to attract substantial investor interest and to ensure market efficiency. The trading

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on December 13, 2005, *In re PolyMedica Corp. Securities Litigation* (Civil Action No. 00-12426-REK; 432 F.3d 1-19) and *In re Xcelera.com Securities Litigation* (Civil Action No. 00-11649-RWZ; 430 F.3d 503-518). In the *Xcelera* opinion, at 430 F.3d 510, the Court stated, "As we stated in *PolyMedica*, "while fundamental value efficiency may be the more comprehensive of the two concepts, encompassing both speed and accuracy, efficiency is not an all-or-nothing phenomenon." Id. (emphasis in original) (internal quotation marks and citation omitted). We explained that "for purposes of establishing the presumption of reliance, therefore, investors need only show that the market was informationally efficient," not fundamental value efficient. Id.; see also id. (stating that "the fraud-on-the-market theory does not require 'proof that the market correctly reflects some 'fundamental value' of the security. To apply the fraud-on-the-market theory, it is sufficient that the market for a security be 'efficient' only in the sense that market prices reflect the available information about the security'") (quoting [\*\*18] *In re Verifone Sec. Litig.*, 784 F. Supp. 1471, 1479 n.7)." Also, see, for example, *Cammer*, 711 F. Supp. at 1281 (stating that an efficient market is one in which "current price reflects all available information," and citing economic commentator Eugene Fama's definition of market efficiency as "[a] market in which prices always 'fully reflect' available information." Additionally, I reviewed the recent decision in *In re IPO Securities Litigation* issued by the U.S. Second Circuit Court of Appeals.

fundamentals and reasonably high turnover of the public float led to an open, active and developed market for Zix's common shares during the proposed Class Period from October 30, 2003, through May 4, 2004 (the "Class Period").

- (b) The public float of Zix was well beyond the level required to attract and maintain investor interest. Furthermore, Zix's outstanding shares were held by institutional investors throughout the Class Period as shown in Exhibit D. The number of identified institutions that were net purchasers of shares in quarters between September 30, 2003 and September 30, 2004, was 57.
- (c) The fact that Zix's shares are actively traded on the NASDAQ National Market and in good standing is, by itself, usually sufficient to conclude that the market for its shares is reasonably efficient.
- (d) Zix's securities filings were timely until March 2005. Zix was eligible to file and did file Form S-3/A on November 3, 2003 and February 12, 2004 during the proposed Class Period. Zix also issued regular press releases and information regarding its earnings, guidance and commercial developments throughout the Class Period.
- (e) There is a "cause and effect relationship" between unexpected corporate events and financial releases and movements in the security price. This can be seen in the event study summarized in Exhibit B. The events relating to the allegations identified in the Complaint were identified with substantial increases in trading volume (as shown in Exhibit C) and significant event effects as shown in Exhibit D, especially for the events of February 4, 2004 and May 4, 5 and 6, 2004. This strongly indicates that the relevant information was highly material to investors

and prompted an immediate reaction when disclosed during and at the end of the Class Period.

(f) The preliminary event study analysis summarized in Exhibit B found that certain statements and assurances by the Company and defendants were material to investors. A consistent method for allocating economic losses and damages to class members that purchased shares from October 30, 2003, through May 4, 2004, can be constructed from the analyses summarized in Exhibits B and C.

7. The total number of outstanding shares ranged from approximately 28 million on September 30, 2003,<sup>2</sup> to over 41 million shares on October 30, 2005.<sup>3</sup> Of the shares outstanding, the outstanding shares not held by officers or directors were consistently in excess of 26 million.<sup>4</sup> Shares held by non-affiliates had a trading value of \$362,587,156 as of February 20, 2004.<sup>5</sup> The trading value of shares held by non-affiliates (the public float) was consistently in excess of \$190 million through the Class Period. From my experience advising clients, as a general rule, a public float of at least 2 million shares with a total market value of the float in excess of \$20 million is considered sufficient to attract adequate market maker and institutional interest and a market value of the float in excess of \$50 million will attract full interest on the part of brokerage firms and market makers.

8. Zix shares were actively traded. The average daily trading volume during the Class Period was 684,140 shares, which represents a daily turnover rate of 2.55% and a

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<sup>2</sup> Form 10-Q filed by Zix on September 30, 2003.

<sup>3</sup> Zix's quarterly report Form 10-Q for the quarter ended September 30, 2005, shares outstanding as of October 28, 2005.

<sup>4</sup> Definitive Proxy Statement filed by Zix on February 20, 2003, shares outstanding less insider shares as of February 20, 2003.

<sup>5</sup> Zix's proxy statements as of February 20, 2004. Shares outstanding of 30,716,748 minus insiders shares of 651,478 multiplied by the reported closing stock price of \$12.06 as of February 20, 2004.

weekly turnover rate of approximately 12.39%.<sup>6</sup> This rate of turnover is significant and indicative of an actively traded security. Additionally, the trade volume increased substantially on the days of or immediately following major material news events such as the February 4, 2004, when Zix Corporation announced financial results for the fourth quarter ended December 31, 2003 (trading volume of 2,139,105 shares), the March 18, 2004, announcement regarding Gary R Craft at Soleil Securities downgrade on Zix Corp. to ``sell'' from ``hold'' (trading volume of 1,014,316 shares) and the reaction of investors following the disclosures at the end of the Class Period on May 5, 2004 (trading volume of 2,438,820 shares). There was a demonstrated ability to short the stock during the Class Period and the short interest changed from month-to-month over time.

9. Institutional ownership of Zix ranged from 2,409,339 shares held by a total of 46 identified institutions on September 30, 2003, to 7,796,363 shares held by 64 identified institutions on September 30, 2004.<sup>7</sup> Institutions actively traded the shares of Zix (as indicated by the turnover of holdings from quarter to quarter from September 30, 2003, through September 30, 2004). Since institutional investors tend to be viewed as more active in monitoring their investments and more sophisticated, such significant institutional shareholdings leads to a strong inference of market efficiency.

10. Zix was generally covered by the financial and general media. Zix was actively covered by Edward Ching, analyst, at Rodman & Renshaw and had coverage later by

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<sup>6</sup> The relevant data is provided in Exhibits C and D. Calculated based on weighted average shares outstanding in the third quarter of 2003 of approximately 22 million, average shares outstanding in the fourth quarter of 2003 of approximately 23.5 million, average shares outstanding in the first quarter of 2004 of approximately 30.2 million and average shares outstanding in the second quarter of 2004 of approximately 31.6 million. Daily turnover was converted into weekly turnover based on 4.86 trade days per week on average based on actual trade days reported between September 30, 2003, and September 29, 2004.

<sup>7</sup> See Exhibit D.

Soleil Securities. Mr. Ching provided regular coverage on Zix and commented on its quarterly financial results on a consistent basis throughout the Class Period.

11. In order to assess the reaction of Zix's share price to relevant news events, I performed an event study. An event study is based on a market model. A market model is a model of how the price of a security (in this case, the price of Zix's publicly traded securities) moves in relation to a market index and/or an index of peer group companies and responds to news and information.

12. An event study is composed of three stages. The first stage of my event study was the identification of material events. The intent of this step of the event study analysis was to control for all days when potentially material information came into the market.<sup>8</sup> The available public information was reviewed to determine information that investors would find to be material to Zix's shareholders on a qualitative basis.<sup>9</sup> This information included analysts' reports, press releases, securities filings,<sup>10</sup> news articles (newspapers and daily publications, as well as more general publications) and Internet bulletin board postings.<sup>11</sup>

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<sup>8</sup> As long as there are sufficient degrees of freedom, the addition of more events (over-identification of events) will ensure a set of "clean" observations in the control sample of "non-event days" and avoid contaminating the market model estimates. Thus, adding "too many" events ensures the relative absence of bias and ensures consistency of the estimates but at some slight loss of efficiency. See, for example, Intriligator, *Econometric Models, Techniques, and Applications*, 1978, pp. 188-189, and Pindyck and Rubinfeld, *Econometric Models and Economic Forecasts*, 1991, p. 162-166.

<sup>9</sup> The list of material items relied upon is based on the NASDAQ guidelines as recognized by the SEC in *Federal Register*, Vol. 67, No. 157, August 7, 2002, pp. 51306-51310. I then added third party news reports, analysts' reports and insider trading events to that list consistent with the academic studies. The dates identified as having potentially material news events and, therefore, associated with indicator variables are listed in Exhibit D.

<sup>10</sup> Most securities filings, including Form 10-Ks and 10-Qs and 8-Ks, are routine and/or duplicate previously disclosed news. Thus, only when a news article or analyst mentions something surprising or new in such filings are they customarily identified as possible events for the purposes of this study.

<sup>11</sup> In this case, the analysis was preliminary and did not consider Internet bulletin board information and information that might be obtained in discovery and reviewing discovery.

13. The second stage of the event study involved the identification and analysis of possible market indices and guideline or peer group companies relative to the returns of Zix's shares. As a preliminary matter, I considered one index which was reasonably likely to explain market and industry elements of the movements in Zix's share price. This index was the Standard and Poor's SmallCap Information Technology Index (S6 INFT).<sup>12</sup> As seen in Exhibit B, this index was significant in explaining the movements in Zix's share price overall and especially significant after controlling for potentially material events. The index explained 11.17% of the overall variance during the event study period (October 30, 2002, to May 4, 2005), and was able to explain a total of 9.47% of the variance on days when no identified events were considered. This is consistent with and strong evidence of an efficient market, in that it indicated that the share price of the Company moved consistently and significantly with market and general industry news events throughout the study period.

14. The third stage of the analysis involved analyzing the candidate events (identified in stage one) in an integrated event study regression. I used the integrated regression or event parameter approach.<sup>13</sup> This approach was selected because the older "two-pass"

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<sup>12</sup> I also considered but found to be incrementally insignificant the NASDAQ Composite Index (CCMP), the NASDAQ Computer Index (IXK) and the Russell 3000 Technology Index (R3TECH) and additional guideline companies: Authentidate Holding Corp. (ADAT), Critical Path, Inc. (CPTH), Entrust, Inc. (ENTU), Allscripts Healthcare Solutions, Inc. (MDRX), NDCHEalth Corporation (NDC), Secure Computing Corporation (SCUR), Symantec Corporation (SYMC), Tumbleweed Communications Corporation (TMWD), Verisign, Inc. (VRSN) and McAfee Inc. (MFE).

<sup>13</sup> In creating a precise, reliable market model required for an event study, one should account for the effects of all significant company-specific news events during the study period, even news unrelated to the subject of interest. This is done using dummy or indicator variables integrated into the market model regression to capture and control for the effects of company-specific events. In a chapter of the textbook *Market Models: A Guide to Financial Data Analysis, 2001*, Alexander explains (p. 441), "Dummy variables should be viewed as necessary measures for data that have structural breaks, regime shifts or seasonalities. If dummies are omitted there will be residual problems that lead to inefficient parameter estimates on the real explanatory variables." In other words, if there are significant news events that caused the stock price of Zix to move on specific days (both related and unrelated to the allegations in this case), it is necessary that one capture the effects of such news events with dummy variables on the appropriate dates

cumulative abnormal returns (CAR) approach to event studies can often be a biased and inconsistent approach to analyzing events.<sup>14</sup> The integrated regression approach yields

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in order to have a reliable analysis. Alexander specifically states (p. 440), "...[O]ne might consider creating a dummy variable to model the timing of important news announcements,...Structural break dummy variables are important whenever the data covers a permanent shift arising from a change in regime, or a temporary shift due to an extreme market movement. Dummy variables should be used prudently and only if there is a real reason, such as an important news announcement...." Consistent with this, I only included dummy variables in my event study for news events specifically related to Zix (that were identified *a priori* without reference to the actual price movements of Zix's shares) that were, in the context of this study, deemed important (material).

Many academic articles discuss the use of dummy/indicator variables to capture the effects of events including: Larcker, Gordon and Pinchea, "Testing for Market Efficiency: A Comparison of the Cumulative Average Residual Methodology and Intervention Analysis," *Journal of Financial and Quantitative Analysis*, June 1980, pp. 267-287; Box and Tiao, "Intervention Analysis with Applications to Economic and Environmental Problems," *Journal of the American Statistical Association*, March 1975, pp. 70-79; Binder, "Measuring the Effects of Regulation with Stock Price Data," *The RAND Journal of Economics*, Summer 1985, pp. 167-183; Karafiath, "Using Dummy Variables in the Event Methodology," *The Financial Review*, August 1988, pp. 351-358; Malatesta, "Measuring Abnormal Performance: The Event Parameter Approach Using Joint Generalized Least Squares," *Journal of Financial and Quantitative Analysis*, March 1986, pp. 27-38; Marais and Schipper, "Chapter 17A: Event Study Methods: Detecting and Measuring the Security Price Effects of Disclosures and Interventions," *Litigation Services Handbook: The Role of the Financial Expert*, Third Edition, 2005 Cumulative Supplement, pp. 17A-15 to 16, 18 and 22 to 23 (discusses the 'event parameter' method, the use of the method to accommodate multiple events and in managing more complex modeling issues); and Dufour, "Dummy Variables and Predictive Tests for Structural Change," *Economics Letters*, 6, 1980, pp. 241-247. (Marais has served as a consultant and co-expert in two securities cases in the past year in both testing and validating my methodology.) Examples in textbooks discussing using dummy indicator variables to capture events in time include: Pindyck & Rubinfeld, *Econometric Models & Economic Forecasts*, 1991, pp. 104-108; Spanos, *Statistical Foundations of Econometric Modeling*, 1986, pp. 536-539 (and as part of a continuing example of modeling money holding behavior in a dynamic, time-series regression); Enders, *Applied Econometric Time Series*, 1995, pp. 243-249 (discusses structural change in unit root time-series and uses dummy variables to test for and adjust for structural change or level shifts in such series); Intriligator, *Econometric Models, Techniques, and Applications*, 1978, pp. 58-61, and Campbell, Lo and Mackinlay, *The Econometrics of Financial Markets*, 1997, p. 167.

<sup>14</sup> The traditional CAR analysis fails to control for company-specific news and, thus, provides a misspecified test in that it consistently fails to control for the factor it seeks to test and, thus, improperly formulates the hypothesis test, especially in a single company event study analysis.

There is substantial general and specific literature in the statistics, economics and finance fields discussing the problems that can arise in the traditional two-pass CAR methodology. See, for example, Larcker, Gordon and Pinchea, "Testing for Market Efficiency: A Comparison of the Cumulative Average Residual Methodology and Intervention Analysis," *Journal of Financial and Quantitative Analysis*, June 1980, pp. 267-287. The authors in this paper state (p. 267), "The objective of this paper is to suggest that the traditional CAR methodology is often inappropriate and that *intervention analysis* [italics in original] is a possible alternative. Where the systematic risk (i.e. Beta) of a firm change as the result (or in anticipation) of an announcement, the cumulative average residual methodology will result in biased residuals. ...Intervention analysis, on the other hand, can separate such risk changes from the information content of the announcement. In addition, intervention analysis also allows the observed auto-correlation in the market model residuals to be removed, thus providing improved beta estimates required for reliable statistical testing." Franses in *Time Series Models for Business and Economic Forecasting*, 1998, recommends "intervention" analysis (p. 130) consistent with Box and Tiao (1975) and points out the statistical problems that arise when one does not capture the effects of known events (with dummy variables) or "neglects them" (pp. 128-129). He states (p. 144), "With a priori knowledge of specific events and approximate dates

consistent and unbiased estimates of both the market model and the effects of events over the period of interest.<sup>15</sup> After identifying all candidate events, the measured effect of each candidate event is analyzed in the context of daily returns.

15. The measured effect of each potentially material event is provided in Exhibit B along with a measure of its statistical significance. Jointly, although the events (173 in total) accounted for only a fraction of the total trade days considered in the analysis (632 observations), they explained a significant proportion of the remaining unexplained variance in Zix's share price throughout the study period.<sup>16</sup> An F-test is a conservative test for the statistical significance of a group of events or explanatory variables. The F-test for significance of the identified events suggested a confidence level in excess of

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which may yield aberrant observations (...), it is not difficult to examine their relevance for a model that will be used for forecasting. We can simply extend our model with additional regressors, such as the dummy variables.... Standard tests for significance can then be used to decide which regressors are potentially important for forecasting.”

The bias and inconsistency problems associated with the two-pass or CAR event analyses are particularly significant in single company event studies. First, the “clean period” required to obtain estimates of the standard errors and the coefficients of the market model in the CAR methodology is almost never really clean in a statistical sense. Clean in a statistical sense implies few or no significant company-specific events and a properly specified market model. Because company-specific events are common in stock price return data, the residuals during the candidate “clean period” are usually not normally distributed (fat tails or kurtosis is common) and the estimated market model is biased and inconsistent due to an *omitted variables problem*. These problems lead to overstated standard errors and understated t-statistics during the event analysis stage of the two-pass methodology. Additionally, fundamental changes in the businesses of a company and its peer companies over time can render the market model coefficients in the “clean period” inapplicable to or biased relevant to the estimation period. (See, for example, Marais and Schipper, “Chapter 17A: Event Study Methods: Detecting and Measuring the Security Price Effects of Disclosures and Interventions,” *Litigation Services Handbook: The Role of the Financial Expert*, Third Edition, 2005 Cumulative Supplement, pp. 17A-16 to 21, wherein they discuss the problem of low “power” in single company event studies and the problem of “interventions” in the estimation period yielding “unstable results”.) Second, the market model in the two-pass CAR methodology is often estimated using a daily returns series. The low percentage of variance explained by the market model (low R-squared of 15% or less) leads to an unfavorable (low) signal to noise ratio and will tend to cause the market model coefficients to be understated or inaccurate even if the omitted variables (omitted company-specific events) did not cause them to be biased. For this reason, beta estimates are preferably made using longer return windows until the R-squared improves or the estimation of the market model must be made in a regression with the company-specific events included as indicator or dummy variables. See Franses in *Time Series Models for Business and Economic Forecasting*, 1998, pp. 128-129.

<sup>15</sup> See the references and discussions in the two prior footnotes.

<sup>16</sup> The identified events were able to increase in the R-squared from 11.2% to 52.2%.

99.99% for the identified events.<sup>17</sup> Finally, the F-test for the identified corrective events of February 4, March 18 and May 4, 5 and 6, 2004 was extremely significant at the 99.99% confidence level.<sup>18</sup> Thus, the share price of Zix reacted more and was significantly more likely to change in relative terms on identified event days, than on non-event days.

16. The events which were viewed a priori as likely to be the most significant are shown in bold in Exhibit B. Not surprising, those events proved to be extremely significant. The reaction to specific disclosures of earnings that were likely to significantly change expectations on February 4, 2004, was significant. Investors similarly reacted significantly to an analyst downgrade substantially and in an extremely significant manner to the primary corrective disclosures at the end of the Class Period on May 4, 5 and 6, 2004. Furthermore, the reactions to new material news tended to be swift and fully absorbed within one full day of trading in the absence of additional news and commentary. There was no meaningful first-order or second-order correlation of abnormal returns on non-event days.<sup>19</sup> This strongly indicates an efficient market.

17. The event study, while reasonably complete and thorough, is preliminary and without the benefit of discovery and additional information which might be considered for purposes of estimating inflation per share and damages.<sup>20</sup> I, therefore, may amend and supplement my conclusions based on subsequent analyses.

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<sup>17</sup>  $F(180,448) = 2.13559$  with Significance Level 0.00000000.

<sup>18</sup>  $F(5,448) = 15.69915$  with Significance Level 0.00000000.

<sup>19</sup> There is a very weak first-order correlation which is not economically exploitable and not statistically significant ( $t=0.70$ ). This slightly correlation disappears (consistent with economic theory) when the second order serial correlation ( $t=-0.17$ ) is tested.

<sup>20</sup> I may, for example, consider bulletin board postings and other evidence of events. Such additional information will not significant change or alter the analysis other than improving the goodness-of-fit.

I declare under penalty of perjury under the laws of the State of Texas and the United States that the foregoing is true and correct. If called as a witness I could and would competently testify thereto.

Executed this 1<sup>st</sup> day of April 2007 at Dallas, Texas.



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Scott D. Hakala, Ph.D., CFA

# EXHIBIT A

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## Exhibit A

### Scott D. Hakala, Ph.D., CFA

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#### Employment History

- **1992 – Jan 1998, March 1998 to Present CBIZ Valuation Group, Inc. (formerly Business Valuation Services), Dallas, Texas**

*Director/Principal.* As a financial economist and financial analyst, Dr. Hakala brings to the firm extensive practical knowledge of finance, economics and statistics. His expertise includes: corporate finance, restructuring and cost of capital; the valuation of securities and business interests (transactions, mergers, acquisitions, fairness opinions); the valuation of intangible assets (patents, trademarks); analysis of publicly traded securities (insider trading studies, trading analyses, event analyses, materiality, damages in securities litigation); economic loss analyses (commercial litigation); wage and compensation determination (reasonable compensation studies, lost personal income, wrongful termination); transfer pricing; derivative securities (options pricing and valuation); and antitrust and industry structure, strategic pricing, marketing and cost allocation analyses.

- **Jan 1998 – March 1998 Laser BioTherapy, Inc., Dallas, Texas**

*Interim President.* Dr. Hakala served as the Chief Executive Officer of Laser BioTherapy, Inc. His decision-making authority involving issues of marketing, employment, negotiating with investors, pricing, product planning, financial planning and all other corporate decisions.

- **1988 - 1992 Dept. of Economics, Southern Methodist University, Dallas, Texas**

*Assistant Professor.* Dr. Hakala taught graduate and undergraduate courses in macroeconomics, monetary/financial economics, financial institution regulation and international financial management. He supervised dissertations on international money, commodity options and forward markets, and foreign exchange rates. His research interests included monetary policy, the causes of fluctuations in employment and output, capital stock estimation, aggregate production theory, foreign currency movements (futures, options and forward contracts), inflation, interest rate movements and the term structure of interest rates, asset pricing and consumption.

- **1983 - 1988 Dept. of Economics, University of Minnesota, Minneapolis, Minnesota**

*Lecturer.* Dr. Hakala designed course materials and taught large classes in macroeconomics and international economics. He served on hiring committees and evaluated other instructors.

#### Formal Education

- Doctor of Philosophy, Economics - 1989  
University of Minnesota, Minneapolis, Minnesota  
Graduate School Fellowship  
(Graduate/dissertation advisor Edward Prescott was awarded the Nobel Prize in Economics in 2004.)
- Bachelor of Arts, Economics - 1983  
Minor in Business Administration and Pre-Law Emphasis  
University of Minnesota, Duluth, Minnesota  
Graduated Summa Cum Laude  
Whiteside Scholarship, full tuition and expenses

## Honors and Awards

- Distinguished Instructor, Department of Economics, University of Minnesota, 1987-1988
- Earhart Foundation Award, Department of Economics, University of Minnesota, 1985
- Graduate School Fellowship, 1983 and 1984
- Cecil H. Meyers Outstanding Economics Student Award, 1982
- Perfect Scores on Quantitative Analysis and Verbal Analysis sections of Graduate Record Examination (GRE), 1982
- Alice Touhy Tweed Award, High School Valedictorian, 1979
- Lee Krough Award (outstanding character), American Legion's Minnesota Boy's State, 1978, elected Lt. Governor and invited to represent state at other events
- Centrum Award, 1979 (for outstanding character and contributions)

## Professional Associations

- CFA Charter, The Institute of Chartered Financial Analysts, completed all tests and requirements for a CFA designation
- Member, American Economic Association
- Member, American Finance Association

## Publications

- Thorsen, Kaplan and Hakala, "Rediscovering the Economics of Loss Causation," *Journal of Business and Security Law Acceptance*, Vol. 6, No. 1 and 2, April 2006, pp. 93-125.
- "Estimating and Applying Economic Value Added," Chapter 13E - *Financial Valuation: Businesses and Business Interests - 1998 Update*. Publisher: Warren, Gorham & Lamont
- "Valuation for Smaller Capitalization Companies" (with Dr. Mukesh Bajaj), Chapter 12A - *Financial Valuation: Businesses and Business Interests - 1998 Update*. Publisher: Warren, Gorham & Lamont.
- "Analysis and Valuation of Distressed Equity Securities" (with Mr. M. Travis Keath), Chapter 13F - *Financial Valuation: Businesses and Business Interests - 1999 Update*. Publisher: Warren, Gorham & Lamont.
- "Analysis and Valuation of Distressed Equity Securities" (with Mr. M. Travis Keath), *Valuation Strategies*, September/October 1999, pp. 24-34. Publisher: Warren, Gorham & Lamont.
- Contributing author in *The Art of M&A Integration: A Guide to Merging Resources, Processes and Responsibilities*. October 1997. Publisher: McGraw-Hill. Contributed on valuation of tangible and intangible assets (patents, trade secrets, customers, goodwill, employment agreements, non-competes, etc.), allocation of purchase price issues, accounting treatment of acquisitions, international valuation and transfer pricing and general valuation and due diligence issues. Assisted editor in commenting on and editing first half of text.

- Provided live and taped interviews pertaining to economic issues for television, including lengthy interviews for CNN (July 1990), WFAA-TV (July 1990; July 1991; March 1992), and radio (Internet radio on November 9, 1999, discussing Microsoft anti-trust issues).

## Lectures Presented

Dr. Hakala is a frequent public speaker on valuation, economics, ethics, and monetary policy. Examples include:

- PLUS D&O Symposium – New York-Panel Discussion-Written presentation entitled “Current Economic Issues in Securities Litigation” and Panel Discussion - February 2, 2006
- “Valuation of Options for Litigation Purposes” – New York University CLE Presentation-October 2000
- “Valuation Issues-Family Limited Partnerships” – Professional Financial Service, LP’s Family Limited Partnership Alert and Update; Dallas/Fort Worth - February 2000
- “PPOs for Sale: the Valuation of Managed Care Entities” - Caesars Palace; Las Vegas, Nevada - September 1992
- “Equilibria in Continuous-Time Models of Money” - refereed paper presented to the Sixth World Congress of the Econometric Society; Barcelona, Spain - August 1990
- “The Use and Holding of Currency” - Feature Presentation - Western Economic Association Meeting; San Diego, California - July 1990
- “Values and Economics” - Dallas Philosophical Forum; Dallas, Texas - March 1990
- “Ethics and the Role of Government” - ARCO Oil and Gas Research Center; Plano, Texas - October 1989
- “Continuous-Time Models of Money: Policy Implications” - paper presented to the Division of Research and Statistics of the Board of Governors of the Federal Reserve; Washington, DC - January 1988

## Expert Witness/Litigation Support

Dr. Hakala has undertaken various assignments involving litigation support and has testified as an expert witness. He has been qualified as an expert and has testified in both U.S. District Court and in U.S. Tax Court. The following is a list of testimony on record:

- *In re JDS Uniphase Corporation Securities Litigation* (Master File No. C-02-1486 CW (EDL)); In the United States District Court For the Northern District of California, Oakland Division; deposition testimony March 12 and 13, 2007; testimony regarding materiality, loss causation, and damages in a class action securities case.
- *In re Enron Corporation Securities, Derivative and “ERISA” Litigation; LAMKIN et al. vs. UBS Paine Webber, Inc., and UBS Warburg LLC, and, Giancarlo vs. UBS Financial Services, Inc., UBS Securities, L.L.C., and UBS AG* (MDL Docket No. 1446; Civil Action Nos. H-02-CV-0851 & H-03-4359, respectively); In the United States District Court For the Southern District of Texas, Houston Division; deposition testimony October 26, 2006; testimony regarding materiality, loss causation, solvency and damages in two class action securities cases involving customers and counter-parties of the defendants and Enron employees awarded stock options.
- *F. L. Motheral Company d/b/a Motheral Printing Company vs. MLP, U.S.A., Incorporated, Mitsubishi & Company, (U.S.A.), Incorporated*; American Arbitration Association, Fort Worth, Texas (Arbitration No.

71 181 Y 00094 05); deposition testimony August 25 and September 20, 2006; testified regarding economic losses relating to allegedly defective printing equipment.

- *In re Rhythms Securities Litigation*; (Case No. 02-K-35); In the United States District Court For the District of Colorado; deposition testimony July 21, 2006; testimony regarding materiality, loss causation, inflation per share and damages in a class action securities case.
- *Rose Johnson, Individually and as Personal Representative of the Estate of Jay Johnson, and Thelma Johnson, Jason Johnson and Kindra Johnson, Individually v. Journeyman Construction, L.P.; Austex Concrete Construction, et al.*; (Cause No. GN-303431) 126<sup>th</sup> Judicial District, Travis County, Texas; deposition testimony July 11, 2006; testified as to the lost income associated with the death of Jay Johnson.
- *In re Enron Corporation Securities Litigation; Mark Newby, et al., vs. Enron Corp., et al.* (MDL Docket No. 1446; Civil Action No. H-01-3624); In the United States District Court For the Southern District of Texas, Houston Division; deposition testimony May 8 and 9, 2006; testimony regarding materiality, loss causation, solvency and damages in a class action securities case in rebuttal to a number of expert reports for defendants.
- *Thomas J. O'Neil, et al. (Plaintiffs) v. Texas American Communications Network, Inc., et al. (Defendants)*; (Cause No. 67-210728-05) 17<sup>th</sup> Judicial District, Tarrant County, Texas; trial testimony May 3, 2006; testified as to the fair value of a small Internet service provider in a case involving breach of fiduciary duty, wrongful termination and destruction of business.
- *Jeffrey H. Winokur, Individually and on Behalf of all Other Similarly Situated, vs. Direct General Corporation, et al.* (Civil Action No. 3:05-0077); In the United States District Court, Middle District of Tennessee; deposition testimony April 7, 2006; testimony regarding materiality, loss causation and damages in a class action securities case.
- *WRS Group, Ltd. And SJS Partnership v. United States* (Civil Action WA:05-CV-166); In the United States District Court, Western District of Texas, Waco Division; deposition testimony April 4, 2006; testified in rebuttal to and regarding the valuation of equity interests of a medical education company and relating allocation issues in an income tax dispute.
- *Jules Adrian Carmack vs. John Dee Carmack II, Kevin Wayne Cloud and Id Software, Inc.*; 134<sup>th</sup> Judicial District, Dallas County, Texas; deposition testimony March 31, 2006; testified as to valuation of a computer game design company and related issues in a shareholder dispute regarding a buy-sell agreement, allegations of oppression and issues of fair value.
- *In re Williams Sec. Litig.* (Case No. 02-CV-75-H(M)); In the United States District Court, Northeastern District of Oklahoma; deposition testimony March 22, 2006; testimony regarding materiality, loss causation and damages in a class action securities case.
- *James Kelsoe, et al., v. Texas United Excavators, L.L.C. and Leslie Lynn Cox*; (Cause No. 67-209655-05) Judicial District, Tarrant County, Texas; deposition March 9, 2006; testified as to lost household income and other support in a wrongful death case.
- *In re Cigna Corporation Sec. Lit.* (Master File No. 2:02CV8088); In the United States District Court, Eastern District of Pennsylvania; deposition testimony March 7, 2006; testified as to issues of loss causation and damages.
- *Wandscape Holdings, Ltd. And Live Oak Holdings, Ltd. v. Wes Lochridge & Associates General Contractors, Inc.* (Cause No. 04-8259); 101<sup>st</sup> Judicial District, Dallas County, Texas; deposition February 27, 2006; testified in rebuttal to and regarding claims of lost rental income in apartments as result of alleged paint peeling.

- *Joseph D. Martinec, Chapter 11 Trustee of WSNET Holdings, Inc. v. Ceberus Capital Management L.P., et al.*; 200<sup>th</sup> Judicial District, Travis County, Texas; deposition testimony December 15, 2005; testified as to valuation of a digital cable/satellite television provider.
- *Vitamin Village, Inc. v. Commissioner of Internal Revenue* (Docket No. 8745-02) and *Universal Marketing, Inc. v. Commissioner of Internal Revenue* (Docket No. 8744-02); United States Tax Court; trial testimony December 9, 2005; testified as to issues related to reasonable compensation of two affiliated companies.
- *Estate of Frederic C. Kohler v. Commissioner of Internal Revenue*; (Docket No. 4646-03); United States Tax Court; trial testimony December 7, 2005; valuation of minority shares of Kohler Inc.
- *In the Matter of the Marriage of Pamela Elaine White and Jeffrey Alan White*; 401<sup>st</sup> Judicial District, Collin County, Texas; deposition testimony November 8, 2005, trial testimony November 17, 2005; testified as to personal goodwill and business valuation.
- *In re Calpine Corporation Securities Litigation*; In the United States District Court, Northern District of California (N.D. Cal. Case No. C-02-1200 SBA (WDB)); deposition testimony October 6 and 7, 2005; testified as to Section 11 damages involving issued debt securities related to allegations of omissions regarding manipulation of the California energy markets in 2000 and 2001.
- *In re Omnicom Group Inc. Securities Litigation*; In the United States District Court, Southern District of New York (Case No. 02 Civ. 4483); deposition testimony September 14, 2005; testified as market efficiency in relation to a motion for class certification.
- *In re: Metris Companies Inc. Securities Litigation*; In the United States District Court, District of Minnesota (Civil Action No. 02-CV-3677 JMR/FLN); deposition testimony August 15, 2005; testified as to materiality, inflation per share and aggregate damages in a class action securities case involving a subprime credit card lender.
- *Federal Home Loan Mortgage Corp. v. Commissioner*, United States Tax Court (Docket Nos. 3941-99, 15626-99 and 5829-02); trial testimony June 8 and 9, 2005; testified as to allocation of purchase price, valuation of intangible assets and favorable financing.
- *David Graben and Frank Strickler v. Western Reserve Life Assurance Company of Ohio; Intersecurities, Inc. and Timothy Hutton*; State District Court, 271<sup>st</sup> Judicial District, Wise County, Texas; deposition testimony March 29, 2005; trial testimony May 18, 2005; testified as to economic losses and prudent investment management involving the management of investment portfolios for two retired individuals.
- *Wechsler & Co., Inc. v. Commissioner of Internal Revenue*, United States Tax Court (Docket No. 9667-04); trial testimony March 24, 2005; prepared a written report and rebuttal report as testimony in a matter involving the determination of the reasonable compensation of a Chief Executive Officer of a broker-dealer specializing in trading convertible debt securities as a dealer and on its own account.
- *Stephen T. Davis, Individually and as Owner of Lone Star Phones v. Dobson Cellular Systems Inc. d/b/a CellularOne and Dobson Communications Corporation and Kelly Lane*; In the United States District Court for the Northern District of Texas, Dallas Division (Case No. 3-04-CV-0465 B); deposition testimony February 25, 2005; testified as to lost income associated with allegations of a breach of contract and wrongful termination of a dealership agreement.
- *In re: PE Corporation Securities Litigation*; In the United States District Court, District of Connecticut (Master File No. 3:00CV705(CFD))); deposition testimony February 23, 2005; testified as to materiality, inflation per share and aggregate damages in a class action securities case involving allegations of inadequate and misleading disclosures relating to a secondary offering of tracking shares.

- *Alpine International Corp. v. Texas Health Resources*; State District Court, 101<sup>st</sup> Judicial District, Dallas County, Texas; deposition testimony February 21, 2005; supplemental deposition October 3, 2005; trial testimony November 23, 2005; testified as to lost profits associated with a breach of a non-solicitation provision in a contract.
- *Michael Gloster and Victoria Gloster, t/a Gloster Marketing v. Relios, Inc., H. William Pollack, III, and Carolyn Pollack*; In the United States District Court, Eastern District of Pennsylvania (Cause No. 02-CV-7140); deposition testimony February 11, 2005; testified as to issues of valuation and profits involving claims of trademark and copyright infringement.
- *In re: Clarent Corporation Securities Litigation*; In the United States District Court, Northern District of California, San Francisco Division (Master File No. C-0103361CRB(JCS)); deposition testimony January 11, 2005; trial testimony January 31 and February 9, 2005; testified as to materiality, inflation per share and aggregate damages in a class action securities case involving allegations of accounting fraud against former officers of the company and the accounting firm for its audit.
- *In re: DQE, Inc. Securities Litigation*; In the United States District Court, Western District of Pennsylvania (Master File No. 01-1851); deposition testimony November 23, 2004; testified as to materiality, inflation per share and aggregate damages in a class action securities case.
- *In re: Worldcom, Inc. ERISA Securities Litigation*; In the United States District Court, Southern District of New York (Master File No. 02 Civ. 4816 (DLC)); deposition testimony November 15, 2004; testified as to discounts related to block size and information effects associated with the possible sale of shares of Worldcom and MCI tracking stock in the first half of the 2002.
- *Adele Brody, et al., on behalf of themselves and all others similarly situated, vs. Peter S. Hellman, et al.*; District Court, City and County of Denver, State of Colorado; deposition testimony September 3, 2004, and May 27, 2005; hearing testimony November 30, 2004; testified as to the ability to measure damages to a class of shareholders via a plan of allocation.
- *In re: Broadcom Corp. Securities Litigation*; In the United States District Court, Central District of California, Southern Division (No. SACV 01-275 GLT (MLGx)); deposition testimony August 27 and 29, September 10, December 1 and 2, 2004, and January 21, 2005; testimony during hearings April 21 and May 25, 2005; testified as to materiality, valuation of customer contracts, valuation, inflation per share and aggregate damages in a securities class action and damages in a related private action.
- *Burt L. Schmidt, Individually and d/b/a Diamond S Trucking vs. Navistar Financial Corporation*; State District Court, Hamilton County, Texas; deposition testimony July 28, 2004; trial testimony August 30, 2004; testified in rebuttal as to claims of lost profits associated with the repossession of tractor trucks by the defendant in 2001.
- *Basic Management Inc, et al., vs. United States of America, et al.*; In the United States District Court, District of Nevada (No. CV-S-02-0884-RCJ-(RJJ)); deposition testimony July 22 and 23, 2004; testified in rebuttal as to appropriate assumptions and methods (including discount rates and appreciation rates) for a real estate development company in Nevada.
- *In re: JTS Corporation, Suzanne L. Decker, Trustee, vs. Roger W. Johnson, et al.*; In the United States Bankruptcy Court, Northern District of California, (No. 98-59752 MM; A.P. No. 00-5423); deposition testimony July 15, 2004; trial testimony April 11, 2005; testified in rebuttal to trustee's expert as to economic losses to creditors and reasonable value associated with certain business decisions.
- *Randy S. Myers, Individually and on Behalf of all others Similarly Situated, vs. Progressive Concepts, Inc. d/b/a Hawk Electronics*; 352<sup>nd</sup> Judicial District, Tarrant County, Texas (Cause No. 352-201156-03); deposition testimony July 2, 2004; testified as to the appropriate measure of damages involving allegations of improper billing involving cell phone services.

- *OnSite Technology LLC vs. Duratherm, Inc. et al.*; In the United States District Court for the Southern District of Texas (Civil Action No. H-02-2624); trial testimony June 10, 2004; testified as to lost profits and reasonable royalties as a result of allegations of patent infringement.
- *ATS Telecommunications Systems, Inc. and ATS Liquidating, Inc. f/k/a Advanced Telecommunications Systems, Inc., by and through its Plan Agent H. Malcolm Lovett, Jr. vs. Philip R. Lacerte and Four LC Trust vs. Stan M. Gorman, Sr., and D. Scott Pool*; 113<sup>th</sup> Judicial District, Harris County, Texas (Cause No. 2001-00997); deposition testimony May 25, 2004; testified as to reasonable and customary terms and consideration for the provision of performance guarantees, reasonable start-up and operating expenses, and issues of fraud and breach of fiduciary duty.
- *ISG State Operations, Inc. vs. National Heritage Insurance Company, Inc.*; 250<sup>th</sup> Judicial District, Travis County, Texas (Cause No. 95-11014); deposition testimony May 11, 2004; trial testimony April 25, 2005; testified as to appropriate measures for calculation lost profits in a breach of contract claim involving data processing.
- *Xperex Corporation, et al. vs. Viasystems Technologies Corp., LLC*; Court of Chancery, New Castle County, State of Delaware (Civil No. 20582-NC); deposition testimony April 23, 2004; testified as to the valuation of intangible assets and business related to allegations of fraudulent conveyance and breach of fiduciary duty to creditors.
- *Richard Marcoux, on behalf of himself and all others similarly situated, v. Billy D. Prim, Andrew J. Filipowski, et al.*; County of Forsyth, State of North Carolina (No. 04 CvS 920); deposition testimony April 12, 2004; testified as to errors in a fairness opinion issued in a proposed acquisition of a public company.
- *Houston Saba, L.P. vs. Nick Hernandez and Boyd Page Inc. d/b/a Boyd Page & Associates*; 280<sup>th</sup> Judicial District, Harris County, Texas (Cause No. 2003-07457); deposition testimony March 31, 2004; testified as lost profits associated with disruption of a restaurant due to street repairs and construction.
- *Autoland of New Jersey, Inc., et al. v. Commissioner of Internal Revenue*; U.S. Tax Court (Docket number 12639-02); testified in trial February 19, 2004; testified as to issues related to the reasonable compensation of executives in the auto retail business.
- *Soils Control International, Inc. vs. Martin Marietta Magnesia Specialties, L.L.C. and Midwest Industrial Supply, Inc.*; United States Court, District of Massachusetts (Civil Action No. A-03-CA-531 H); deposition testimony January 30, 2004; testified as to lost profits in a dispute relating to allegations of deceptive trade practices.
- *In re Raytheon Company Securities Litigation*; United States Court, District of Massachusetts (Civil Action No. 99-12142 (PBS)); deposition testimony January 27, 2004; testimony in hearings May 3 and 7, 2004; testified as to materiality, causation, inflation per share and aggregate damages.
- *In re: AT&T Corp Securities Litigation*; United States District Court of New Jersey (MDL No. 1399, Civil Action No. 01-1883 (GEB)); Consolidation Class Action on Behalf of the Purchasers of AT&T Wireless Tracking Stock Shares between April 27 and May 1, 2000; deposition testimony January 16, 2004; testified as to materiality, causation, inflation per share and aggregate damages.
- *Robert Rodgers vs. Johnson Health Tech. Co., Ltd., Epix, Inc. d/b/a Vision Fitness, et al.*; United States District Court for the Western District of Texas, Austin Division (Civil Action No. A 02 CA 731 SS); deposition testimony January 7, 2004; testified as to reasonable royalties and damages for alleged patent infringement.

- *In re Xcelera.Com Securities Litigation.*; United States District Court, District of Massachusetts, Boston, Massachusetts (Civil Action No. 00- CV-11649(RWZ)); hearing testimony November 20 and 21, 2003; testified as to materiality, reliance and market efficiency in a hearing on class certification.
- *C. F. Jordan, L.P. v. Argosy Gaming Company, Laneco Construction Systems, and Louisiana Glass*, AAA Arbitration (Case Number 71 110 01059 01); deposition testimony November 18, 2003; testified in rebuttal to allegations of lost income from hotel construction and remediation activities.
- *ELIZABETH M. KURECKA, Individually and as Representative of the estate of Edward Kurecka, Deceased, MICHAEL KURECKA, TIM KURECKA, and MELANIE KURECKA POWELL v. DAVID H. AMMONS, M.D., GARY R. GODSIN, M.D., and MICHAEL PETTIBON, M.D.*; 342<sup>nd</sup> Judicial District, Tarrant County, Texas; deposition testimony September 2003; testified as to the loss of income to the survivors in a wrongful death case.
- *Betsy Gross v. David Halbert and AdvancePCS*; 352<sup>nd</sup> Judicial District, Tarrant County, Texas (Cause No. 352-196123-02); deposition testimony August 26, 2003; testified at trial November 10 and 11, 2004; testified as to the valuation of executive stock options.
- *Michael Aldridge, Individually and on Behalf of All Other Similarly Situated, vs. A. T. Cross Corporation; Bradford R. Boss; Russell A. Boss; et al.*; United States District Court, District of Rhode Island (C.A. No. 00-203 (ML)); deposition testimony August 19, 2003; testified as to materiality, causation and damages in a securities class action.
- *In Re Broadcom Corp. Securities Litigation*; United States District Court, Central District of California, Southern Division (Master File No. SACV 01-275 GLT (Eex)); deposition testimony July 29 and 30, 2003; testified as to the market efficiency of the trading of Broadcom shares and aggregate damages calculations relating to class certification.
- *J. Bryan Pickens vs. John T. Pickens, J. Michael Tiner, Michael K. Pickens, C. Robert Milner, Jr., Pickens Financial Group, L.L.C., Pickens Resource Corp., and Pickens, Ltd.*; 298<sup>th</sup> Judicial District, Dallas County, Texas (Cause No. 02-01105); deposition testimony July 11, 2003; testified as to the overall financial performance of certain companies and the fairness (or benefits to the plaintiff) of certain transactions involving the defendant companies and affiliated trusts.
- *In re Arthur Franklin Tyler, Jr., Debtor; Arthur Franklin Tyler, Jr., v. Tywell Manufacturing Corporation*; U.S. Bankruptcy Court, Northern District of Texas, Dallas Division (Case No. 01-80343-SAF-13; Adversary No. 02-3530); trial testimony July 1, 2003; testified as to net asset value under various assumptions in an involuntary shareholder foreclosure/shareholder oppression dispute.
- *FFP Partners, L.P. v. Jack J. Ceccarelli, Restructure Petroleum Marketing Services, Inc. f/k/a E-Z Serve Petroleum Marketing Company and Environmental Corporation of America, Inc.*; American Arbitration Association (Case No. 71-Y-198-00167-02); hearing testimony May 19, 2003; testified as to the value of gas-only operations related to allegations of breach of contract, breach of fiduciary duty and theft of business opportunities.
- *RadioShack Corporation, and TE Electronics, L.P. vs. Fried, Frank, Harris, Shriver & Jacobson and Harvey Pitt*, United States District Court, Northern District of Texas, Ft. Worth Division (Civil Action No. 4:02-CV-0639-TV); deposition testimony May 9, 2003; testified as to causation and damages as a result of allegations of legal malpractice.
- *Printwrap, Inc. v. Printwrap Sales, Inc. and Maxine Ammon*; 134<sup>th</sup> Judicial District, Dallas County, Texas (Cause No. 02-5064-G); deposition testimony May 6, 2003; testified as to the valuation and economic losses of a purchase of a specialty printing business as a result of allegations of material misrepresentations on the part of the seller.

- *In re Theragenics Corp. Securities Litigation*; United States District Court, Northern District of Georgia, Atlanta Division (Civil Action No. 1:99-CV-141-TWT); deposition testimony April 2, 2003, and August 14, 2003; testified as to materiality, causation, inflation per share and damages as a result of allegations of securities fraud (violations of the Securities Exchange Act of 1934, Rule 10b-5).
- *Teleplus, Inc., v. Avantel, S.A.*; United States District Court, Western District of Texas, San Antonio Division (Civil No. SA-98-CA-0849 FB); deposition testimony March 26, 2003; trial testimony September 25, 26 and 29, 2003; testified as to the valuation of a reseller and marketer of long-distance telephone services (primarily for domestic and international service in Mexico).
- *Russell Grigsby vs. ProTrader Group Management, L.L.C., et al.*; American Arbitration Association (Cause No. 70-180-00648-02); deposition testimony March 7, 2003; arbitration hearing testimony October 17 and November 3, 2003; testified in a fraud and shareholder oppression case as to the fair value of a brokerage firm with specialization in day trading.
- *Donald P. Williams vs. Peter O. Holliday, III, MD, and Open MRI of Decatur*; Circuit Court of Morgan County, Alabama (Case Number: CV-00-974); testified at trial March 4, 2003; testified as to the value of loan guarantees and the value of a business operating an MRI in a shareholder oppression lawsuit.
- *Menard, Inc. v. Commissioner of Internal Revenue*; U.S. Tax Court; testified in trial February 27, 2003; testified as to the compensation of executives in comparable and guideline companies and the proper valuation of incentive compensation benefits.
- *Richard Strauss, Sovereign Texas Homes, Ltd., et al. vs. Wallace Sanders & Company, et al.*; 191<sup>st</sup> Judicial District, Dallas County, Texas (Cause No. 02-2562-J); deposition testimony February 14 and 20, 2003; testified as to materiality, causation, and damages as a result of allegations of improper accounting.
- *Paul Dzera, Philip J. Gund and Stephen Marotta v. Zolfo Cooper, L.L.C.*; American Arbitration Association (Arbitration no. 18Y180143301), Newark, New Jersey; hearing testimony February 11, 2003; testified as to measures of economic loss associated with claims brought by defendant.
- *In re VISIONAMERICA, INC. SECURITIES LITIGATION*; United States District Court, Middle District of Tennessee, Nashville Division (Master File No. 3-00-0279); deposition testimony December 12, 2002; testified as to materiality, causation, inflation per share and damages as a result of allegations of securities fraud involving accounting misstatements (violations of the Securities Exchange Act of 1934, Rule 10b-5).
- *In re National Golf Properties, Inc. Shareholder Litigation; (Masseo Investment Partners, Ltd., Anne Marie Rouleau, Thomas Feiman, IRA and Robert Lewis, On Behalf of Themselves and All Others Similarly Situated, vs. James M. Stanich, et al.*; Superior Court of the State of California, County of Los Angeles (Lead Case No. BC268215); deposition testimony November 22, 2002; testified as to fairness and problems with a fairness opinion involving a proposed acquisition of the public REIT, including process, disclosure and allocations of proceeds problems.
- *Ralph R. Unstead, Jr., On behalf of Himself and All Other Similarly Situated, v. Intelect Communications, Inc., et al.*; U.S. District Court for the Northern District of Texas, Dallas Division (No. 3:99-CV-2604-M); deposition testimony October 31, 2002; testified as to materiality, causation and damages in a class action securities case.
- *Physicians Resource Group, Inc. and EyeCorp, Inc., vs. Dr. David Meyer, et al.*; U.S. Bankruptcy Court, Northern District of Texas, Dallas Division; deposition testimony October 22, 2002; trial testimony February 7, 2002; testified as to issues of solvency and reasonably equivalent damages as a result of certain transactions between the defendants and the plaintiffs prior to bankruptcy.

- *Maximicer, L.L.C., vs. PepsiCo, Inc.*; U.S. District Court for the Eastern District of Texas, Marshall Division (No. 2-01-CV-132(tjw)); deposition testimony October 21, 2002; trial testimony December 10, 2002; testified as to damages arising from claims of commercial defamation and other causes.
- *HALCYON INVESTMENTS INC., f/k/a B.A.S.S., Inc., et al. vs B.A.S.S., LLC, f/k/a LIVEWELL ACQUISITION, LLC, B.A.S.S. (IP), et al.*; AAA Arbitration (File No. 30 E 181 00434 02); deposition testimony October 10, 2002; testified as to due diligence, disclosures and economic damages estimates involving an agreement to sell a business between the parties (subject to confidentiality agreement).
- *Jerry Krim, et al. v. pcOrder.com, Inc., et al.*; U.S. District Court for the Western District of Texas, Austin Division (Master File No. A:00-CA-776-SS); hearing testimony September 20, 2002; testified in a class certification hearing on the trading of shares and source of shares purchased by proposed lead plaintiffs.
- *APA EXCELSIOR III L.P., APA EXCELSIOR III OFFSHORE, L.P., APA/FOSTIN PENNSYLVANIA VENTURE CAPITAL FUND, CIN VENTURE NOMINEES LIMITED, STUART A. EPSTEIN and DAVID EPSTEIN, v. PREMIERE TECHNOLOGIES, INC., BOLAND T. JONES, PATRICK G. JONES, GEORGE W. BAKER, SR., and RAYMOND H. PIRTLE, JR.*; U.S. District Court for the Northern District of Georgia (Civil Action No. 1:99-CV-1377-JOF); deposition testimony September 4, 2002; testified as to the materiality of certain representations and damages in a securities case.
- *Microtune, L.P. v. Broadcom Corporation*; U.S. District Court for the Eastern District of Texas, Sherman Division (Civil Action No. 4:01-CV-023); deposition testimony August 29, 2002; testified as to the reasonable royalty in a patent infringement case.
- *John F. Havens, On Behalf of Himself and All Others Similarly Situated, vs. James L. Pate, et al.; and Howard Lasker, On Behalf of Himself and All Others Similarly Situated, vs. James L. Pate, et al.*, 295<sup>th</sup> Judicial District, Harris County, Texas (Cause No. 2002-16085); deposition testimony July 15, 2002; hearing testimony July 18, 2002; testified as to the materiality of certain information omitted from a proxy to Pennzoil-Quaker State shareholders, issues with respect to the fairness opinion analysis by Pennzoil's financial advisor, the determination of fairness and issues with respect to mergers and acquisitions.
- *Lawrence D. Poliner, M.D. v. Texas Health Systems, et al.*; U.S. District Court, Northern District of Texas, Dallas Division (Civil Action No. 3:00CV1007-P); deposition testimony May 20, 2002; testified as to certain anti-competitive issues involving a specialist medical practice.
- *In re: Chartwell Health Care, Inc.; John H. Litzler, Chapter 7 Trustee, vs. Irving D. Boyes, et al.*; U.S. Bankruptcy Court, Northern District of Texas, Dallas Division (Case No. 398-38546-SAF-7); deposition testimony April 25, 2002; testified as to solvency and economic losses of a nursing home operator.
- *Leonard Sauls, Jr. v. The Estate of William Lee Hatch, Jr., Deceased, et al.*; In the Probate Court Number One, Travis County, Texas (Cause No. 75278-A); deposition testimony March 22, 2002; testified as to the measurement of lost future earning capacity, case settled before issuance of deposition transcript.
- *Leland Stenovich, et al., vs. Spencer F. Eccles, et al.*; Third Judicial District Court, Salt Lake County, State of Utah (Class Action, Case No. 000907870); deposition testimony February 5 and 6, 2002; testified as to standards of practice, fairness and adequacy of consideration in a class action lawsuit relating to the acquisition of First Security Corporation by Wells Fargo.
- *In re Computer Associates Class Action Securities Litigation*; U.S. District Court for the Eastern District of New York (Master File No. 98-CV-4839); deposition testimony January 23 and 24, 2002; testified as to materiality, causation and damages in a securities fraud lawsuit.

- *Pamela Graham Reeves vs. VIJ, Inc. d/b/a National Utilities Co./NUCO and Greer Industries, Inc.*; U.S. District Court for the Northern District of Texas-Fort Worth Division (Case No. 400-CV-1671-BE); trial testimony January 9, 2002; testified as to market wages, current job market and likelihood of employment for an individual alleged to have been wrongfully terminated.
- *Patricia E. Vincent and James R. Vincent v. Bank of America Texas, N.A.*; In the 68<sup>th</sup> Judicial District Court, Dallas County, Texas (Cause No. DV99-00745); testimony in hearing in December 2000 and trial testimony December 18, 2001; testified as to the proper calculation of interest on a home mortgage and common standards and practices for calculating mortgage interest.
- *Joan C. Howard and Charles A. Anderson, on behalf of themselves and all others similarly situated. v. Everex Systems, Inc., and Steven L.W. Hui, et al.*; U.S. District Court for the Northern District of California (Case No. C 92 3742 CAL); deposition testimony November 19 and 20 and December 17, 2001; testified as to materiality, causation and damages in a securities fraud lawsuit.
- *Reinsurance International Services Company, L.L.C. v. Lambert Fenchurch Group Limited, et al.*; In the 98<sup>th</sup> Judicial District Court, Travis County Texas (Civil Action No. 99-00745); deposition testimony September 20, 2001; testified as to lost profits and lost business value experienced by a reinsurance broker relating to allegations of misrepresentations and breach of duty.
- *Robert Alpert, James Ventures, L.P., Markus Investments, Inc. and James Investments, Inc. vs. Innovative Valve Technologies, Inc., et al.*; U.S. District Court for the Southern District of Texas, Houston Division (Civil Action No. H-01-076); deposition testimony September 19, 2001; testified as to materiality, causation and damages in a securities fraud lawsuit.
- *Premier Lifestyles International Corporation vs. Electronic Clearing House, Inc.; XpresscheX, Inc., et al.*; Superior Court for the State of California, County of Los Angeles (Case No. BC230691); deposition testimony September 17 and 27, 2001; trial testimony November 27 and 28, 2001; testified as to lost business opportunities and damages arising from various causes of action.
- *In re Phycor Corporation Securities Litigation*; U.S. District Court for the Middle District of Tennessee, Nashville Division (Civil Action No. 3-98-0834); deposition testimony August 9 and November 6, 2001; testified as to materiality, causation and damages in a securities class action lawsuit.
- *Ben Higbee and Bridgestone Healthcare Management, Inc. .vs. Bridgestone Healthcare Management, Inc.,...and David E. Sones*; 101<sup>st</sup> Judicial District, Dallas County, Texas (Cause No. 00-7365-3); deposition testimony June 21, 2001; testified as to preliminary findings as to fairness of certain transactions involving a workers' compensation and rehabilitation business.
- *Auto Wax Co., Inc. v. Mark V Products, Inc...*; U.S. District Court for the Northern District of Texas, Dallas Division (Civil Action No. 3-99 CV 0982-T); deposition testimony April 25, 2001; trial testimony June 29, 2001; testified as to the reasonable royalty and lost profits in a patent infringement and trademark infringement case.

# EXHIBIT B

Regression Window	1 Day Effect	T-statistic	Description
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**Market & Industry Regressions on Non-Event Days**

Coefficient			
Centered R**2	9.47%		Percent of Variance explained by regression
SEE	3.96%		Standard error of residual (portion of movement unexplained by regression)
Constant	-0.22%	-1.18	
S6INFT	54.34%	4.19	S&P 600 INFO TECH INDEX
SUBINDEX	17.76%	2.41	Equally-Weighted Geometrix Index of ADAT, TMWD, MDRX and SCUR

**Market, Event and Industry Regressions**

Centered R**2	52.19%		Percent of Variance explained by regression
SEE	3.96%		Standard error of residual (portion of movement unexplained by regression)
Constant	-0.22%	(1.18)	
S6INFT	54.34%	4.19	S&P 600 INFO TECH INDEX
SUBINDEX	17.76%	2.41	Equally-Weighted Geometrix Index of ADAT, TMWD, MDRX and SCUR

Zix Corporation announced results for the third quarter ended September 30, 2002. For the third quarter 2002, Zix Corp. reported a net loss of \$8,763,000 or 63¢ per share, on revenues of \$434,000, a 30% improvement over the net loss of \$12,440,000, or 73¢ per share, on revenues of \$36,000 recorded for the third quarter of 2001. For the 9-month period ended September 30, 2002, Zix Corp. reported a net loss of \$26,480,000, or \$1.64 per share, on revenues of \$1,126,000, compared to a net loss of \$37,396,000, or \$2.19 per share, on revenues of \$263,000 for the first 9 months of 2001. Included in these net losses are significant non-cash charges, totaling \$12,449,000 or 47% of the net loss for the 9-month period ended September 30, 2002, and \$15,761,000 or 42% of the net loss for the 9-month period ended September 30, 2001(Business Wire 10.30.02)

1	10/31/2002	-0.82%	-0.21	Zix Corporation announced results for the third quarter ended September 30, 2002. For the third quarter 2002, Zix Corp. reported a net loss of \$8,763,000 or 63¢ per share, on revenues of \$434,000, a 30% improvement over the net loss of \$12,440,000, or 73¢ per share, on revenues of \$36,000 recorded for the third quarter of 2001. For the 9-month period ended September 30, 2002, Zix Corp. reported a net loss of \$26,480,000, or \$1.64 per share, on revenues of \$1,126,000, compared to a net loss of \$37,396,000, or \$2.19 per share, on revenues of \$263,000 for the first 9 months of 2001. Included in these net losses are significant non-cash charges, totaling \$12,449,000 or 47% of the net loss for the 9-month period ended September 30, 2002, and \$15,761,000 or 42% of the net loss for the 9-month period ended September 30, 2001(Business Wire 10.30.02)
2	11/07/2002	5.72%	1.39	Zix Corporation announced an agreement under which Bell Canada will offer subscribers to its business Internet services the capability to send and receive secure email using Zix Corp.'s email encryption services(Business Wire)
3	11/14/2002	-4.04%	-1.03	Zix Corporation announced it will begin a Web seminar series November 20 highlighting the importance of meeting Health Insurance Portability and Accountability Act guidelines by the April 14, 2003, deadline and including email security solutions as a vital part of Internet risk management strategies for the healthcare industry(Business Wire 11.13.02) App. 32

## Exhibit B Event Study Summary

Regression Window		1 Day Effect	T-statistic	Description
4	12/04/2002	11.59%	2.75	Zix Corporation announces a full conversion of its convertible notes. All debt is eliminated from the company's balance sheet(Business Wire)
5	12/10/2002	-1.94%	-0.49	Zix Corporation announced it will conduct a Web seminar December 18 featuring Joyce Graff, Vice President and Research Director for Gartner, Inc., who will discuss the importance of secure email and how companies can ensure consistency in their corporate email security policies(Business Wire)
6	12/23/2002	7.02%	1.70	CUNA Mutual selects Zix Corporation as its worldwide secure e-messaging solutions provider(Business Wire)
7	01/07/2003	3.50%	0.87	Zix Corporation announced it will conduct a Web seminar January 15 highlighting the importance of understanding end-user requirements when evaluating e-messaging security solutions(Business Wire)
8	01/15/2003	2.56%	0.64	Zix Corporation announced that its shareholders approved a proposal presented by the company that has the effect of strengthening Zix Corp.'s financial position. With this approval, the company now has broader latitude to redeem its outstanding preferred shares for common stock rather than using its cash resources. This proposal was presented for shareholder approval to comply with Marketplace Rule 4350 of the NASDAQ National Market and the company's agreements with purchasers of convertible equity securities issued in September 2002 in connection with a previously announced \$16M private placement. With this shareholder vote, the company may now issue the common stock associated with the private placement in an amount equal to or greater than 20% of its outstanding common stock and may issue common stock at a price below the greater of the book or market value of its common stock at the time of the financing to certain holders of its convertible preferred stock(Business Wire)
9	01/21/2003	-3.09%	-0.79	Zix Corporation announced a 2-year agreement with the West Surrey Health Community, part of the United Kingdom's National Health Service (NHS), to provide secure e-messaging for the regional healthcare community(Business Wire)
10	01/22/2003	-6.45%	-1.68	Zix Corporation establishes Zix Research Center to extend leadership in secure e-messaging(Business Wire)
11	01/29/2003	-4.51%	-1.16	Blue Cross of Northeastern Pennsylvania selects Zix Corporation for company-wide e-messaging security(Business Wire)
12	01/31/2003	2.17%	0.54	The Chicago Board Options Exchange announced it will list Long-term Equity Anticipation Securities (LEAPS) on Zix Corporation beginning Friday, January 31, 2003(CRL 01.30.03 (found on Bloomberg))
13	02/04/2003	-0.59%	-0.15	Zix Corporation announced the latest version of ZixVPM(TM), an e-messaging gateway solution that provides company-wide privacy protection for inbound and outbound email communications combined with sophisticated policy management capabilities(Business Wire)

## Exhibit B Event Study Summary

Regression Window	1 Day Effect	T-statistic	Description
14	02/05/2003	0.94%	Zix Corporation announced its new ZixWorks(TM) offering. ZixWorks is the first service that addresses the requirements of organizations seeking to safeguard their communications against email-borne threats, to deliver policy-driven security, and to comply with various regulations and mandates regarding transmittal and retention of email. ZixWorks delivers anti-virus, anti-spam, content scanning, encryption, and archiving capabilities in a fully managed and hosted service. The service satisfies the growing number of email requirements in one simple solution and is suited for both large and small organizations(Business Wire)
15	02/06/2003	1.93%	Zix Corporation announced that MVP Health Care (MVP), a full-service employee health benefits company based in New York and serving more than 540,000 members throughout New York and Vermont, has chosen Zix Corp. secure e-messaging services for their cost-effective and comprehensive approach to securing and managing e-messaging in compliance with privacy regulations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA)(Business Wire)
16	02/07/2003	2.51%	Zix Corporation announced its fourth quarter and annual financial results for the period ended December 31, 2002. For the fourth quarter 2002, Zix Corp. reported a net loss of \$6,957,000 or 39¢ per share, on revenues of \$546,000, compared to a net loss of \$19,350,000, or \$1.13 per share, on revenues of \$54,000 recorded for the fourth quarter of 2001. For the year ended December 31, 2002, Zix Corp. reported a net loss of \$33,437,000, or \$2.02 per share, on revenues of \$1,672,000, a 41% improvement over the net loss of \$56,746,000, or \$3.32 per share, on revenues of \$317,000 for the year ended December 31, 2001. Included in these annual net losses are significant non-cash charges, totaling \$14,741,000 or 44% of the net loss for 2002, and \$28,301,000 or 50% of the net loss for 2001(Business Wire 02.06.03)
17	02/11/2003	-1.67%	Zix Corporation announced it will conduct a Web seminar February 19 highlighting the smart e-messaging solutions of its new ZixWorks(TM) total-care hosted email service(Business Wire)
18	02/24/2003	4.28%	Zix Corporation announced its support for HealthyEmail(TM), a nonprofit organization created to maximize and accelerate the adoption of email usage in the healthcare industry(Associated Press Newswires 02.21.03)
19	02/27/2003	7.74%	Zix Corporation to provide Humana with ZixWorks - HIPAA compliant secure e-messaging(Business Wire)
20	03/05/2003	-6.83%	Freeman Health System selects Zix Corporation for system-wide email protection services(Business Wire)
21	03/18/2003	-0.03%	Zix Corporation announced that Mississippi Baptist Health Systems (Baptist), a regional healthcare provider based in Jackson, Mississippi, has selected Zix Corp. as its trusted e-messaging solutions provider(Business Wire)

## Exhibit B Event Study Summary

Regression Window	1 Day Effect	T-statistic	Description
22	03/25/2003	0.13%	Zix Corporation announced that Blue Cross and Blue Shield of Kansas (BCBSKS), an independent licensee of the Blue Cross and Blue Shield Association and largest health insurer in the state of Kansas, has selected Zix Corp.'s entire suite of secure e-messaging and content management services for 1,000 users enterprise-wide to help comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) guidelines by the April 14 deadline(Business Wire)
23	03/27/2003	-0.94%	Zix Corporation announced that HealthEast Care System, a nonprofit healthcare system based in St. Paul, Minnesota, has selected Zix Corp. to provide email protection services for 2,500 users to comply with the mandates of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) concerning Protected Health Information (PHI) by the April 14 deadline(Business Wire)
24	04/02/2003	4.78%	American Medical Security Group picks Zix Corp. for enterprise-wide HIPAA-compliant e-messaging protection(Associated Press Newswires)
25	04/17/2003	-2.61%	Zix Corporation announced it has been selected by the University of Utah Health Sciences Center (UUHSC), a major university-based patient care hospital system, education, research, and health professions training center for a 6-state region, to provide secure email for 12,000 users including physicians, students, and staff. UUHSC purchased ZixVPM(TM) (Zix Virtual Private Messenger(TM)), a company-wide gateway solution that provides policy-driven secure email, and ZixPort(TM), an integrated secure e-messaging portal that mirrors the look and feel of the organization's existing Web portal. UUHSC will encrypt Protected Health Information (PHI) to comply with the privacy regulations of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), which had a deadline of April 14, 2003. The University of Utah Medical Group, a group of 850 board-certified physicians, also played an important role in the initiative and selection of the solution(Business Wire)
26	04/21/2003	3.43%	Zix Corporation announced that National Imaging Associates, Inc., one of the nation's leading providers of radiology benefits management, has chosen Zix Corp. services to help enforce its company-wide email security policies(Business Wire)
27	04/25/2003	-10.16%	Zix Corporation announced financial results for the first quarter ended March 31, 2003. For the first quarter 2003, Zix Corp. reported a net loss of \$6,831,000 or 36¢ per share, on revenues of \$639,000, a 30% improvement over the net loss of \$9,788,000, or 56¢ per share, on revenues of \$389,000 recorded for the first quarter of 2002. Equally important is the mix of new healthcare business in the quarter. Excluding transactions over \$300,000, we concluded over 25 major transactions averaging in excess of \$50,000 each. This result compares to only 5 transactions at an average of \$34,000 each concluded in the fourth quarter of 2002. By comparison, this quarter's results represent a 5-fold increase in the number of such transactions and almost a 7-fold increase in the total dollar value of such transactions over last quarter's(Business Wire)

## Exhibit B Event Study Summary

Regression Window	1 Day Effect	T-statistic	Description
28	04/28/2003	1.00%	Zix Corporation announced that 3 members of the New Jersey-based Robert Wood Johnson Health System and Network, one of the largest healthcare systems in New Jersey and the only one with a medical school as a partner, have selected Zix Corp. for their e-messaging protection services(Business Wire)
29	04/29/2003	-1.19%	Zix Corporation announced it has been selected by IASIS Healthcare Corporation, a leading owner and operator of acute care hospitals across the United States, to provide email encryption for 2,250 users, anti-spam, anti-virus, content filtering and archiving - all services provided by ZixWorks(TM). ZixWorks is a hosted and managed service operating outside a company's network that acts as a forward perimeter defense or firewall against external email threats, protects customer networks, and reduces wasted network bandwidth. The service satisfies the growing number of requirements for managing email with one simple solution and is suited for both large and small organizations. Humana Inc., ranked as the 7th largest company in the health benefits provider industry by Fortune Magazine, is an example of a larger corporation currently using ZixWorks(Business Wire)
30	05/05/2003	-0.23%	Zix Corporation announced a reseller agreement with Integralis Limited, a wholly owned subsidiary of Articon-Integralis (Neuer Markt: AAGN), Europe's largest specialist security systems integrator(Business Wire)
31	05/12/2003	-1.73%	Zix Corporation announced it has earned the American Institute of Certified Public Accountants SysTrust(TM) certification for system reliability for effectiveness of controls over the security, availability, processing integrity, and confidentiality of Zix Corp.'s Zix Secure Center(TM), the world-class data center that handles operations for Zix Corp. services. Zix Corp. met the principles and criteria established for SysTrust by the American Institute of Certified Public Accountants (AICPA) and the Canadian Institute of Chartered Accountants (CICA) following a Deloitte & Touche LLP evaluation during the period of March 1 to April 30(Business Wire)
32	05/28/2003	-8.84%	Zix Corporation announced that St. Agnes HealthCare, a full-service community teaching hospital and member of the Ascension Health network, has selected Zix Corp. as its organization-wide secure email protection provider(Business Wire)
33	06/05/2003	0.16%	Zix Corporation announced the results of a recent study conducted by its Zix Research Center, revealing that many leading healthcare organizations are transmitting email messages containing federally protected health information over public networks without using appropriate safeguards, contrary to recently implemented regulations(Business Wire)
34	06/19/2003	-1.81%	Zix Corporation announced that the New Jersey Hospital Association (NJHA) has selected Zix Corp. as its preferred provider of secure e-messaging solutions to New Jersey healthcare organizations to help them comply with the new federal laws and regulations requiring privacy and security for Protected Health Information

## Exhibit B Event Study Summary

Regression Window	1 Day Effect	T-statistic	Description
35	06/26/2003	<a href="#">-2.00%</a>	-0.51  Zix Corporation announced that it has completed private placements in which the company received an aggregate of \$5,750,000 in cash in exchange for 1,566,758 shares of the company's common stock and warrants to purchase 231,855 shares of the company's common stock. The shares of common stock were sold at a price of \$3.67 per share and the warrants have an exercise price of \$4.96 per share. The warrants are immediately exercisable and expire in June 2007(Associated Press Newswires); Zix Corporation announced it has been selected by Blue Cross and Blue Shield of Nebraska, Nebraska's largest health insurer, to enable secure e-messaging and to help the organization meet the privacy and security guidelines set by industry and federal mandates, including the Health Insurance Portability and Accountability Act of 1996 (HIPAA)(Business Wire)
36	07/01/2003	<a href="#">0.03%</a>	0.01  Zix Corporation announced that St. Louis-based Ascension Health, the largest not-for-profit Catholic healthcare system in the United States, has chosen Zix Corp. as its preferred provider and is recommending that its member ministries standardize on Zix Corp. secure e-messaging services to help meet the mandates of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) regarding electronic communications over public networks(Business Wire)
37	07/07/2003	<a href="#">2.16%</a>	0.54  payments(Market News Publishing)  Zix Corporation announced that Jewish Hospital HealthCare Services (JHHS), the leading center for adult tertiary medical/surgical care in Kentucky and southern Indiana,
38	07/08/2003	<a href="#">-1.80%</a>	-0.45  has selected Zix Corp. as its email security provider(Business Wire)
39	07/17/2003	<a href="#">3.49%</a>	0.85  Zix Corporation announced that Cole Vision Corporation has selected Zix Corp. for its company-wide email security solution(Business Wire)
40	07/23/2003	<a href="#">6.45%</a>	1.57  Wire)  Zix Corporation acquires assets from leading electronic prescription provider, PocketScript, LLC(Business Wire 07.22.03); Tufts Health Plan and Zix Corporation announce alliance to provide wireless prescribing to Massachusetts physicians(Business
41	07/31/2003	<a href="#">1.22%</a>	0.30  1996 (HIPAA)(Business Wire)  Zix Corporation announced that Independent Health, a health solutions company providing health benefits and services to nearly 440,000 individuals, has selected Zix Corp. as its secure e-messaging provider. The Buffalo-based organization selected Zix Corp. services for their ability to integrate seamlessly into its existing network and protect member privacy in efforts to comply with the Health Portability and Accountability Act of
42	08/08/2003	<a href="#">-0.77%</a>	-0.19  its 2003 Stock Compensation Plan(Market News Publishing)

## Exhibit B Event Study Summary

Regression Window	1 Day Effect	T-statistic	Description
43	08/12/2003	-12.11%	Zix Corporation announced the ZixVPM(R) Alert Service, a new option being offered to subscribers of the ZixVPM (Zix Virtual Private Messenger) service, Zix Corp.'s server-based secure e-messaging solution(Bloomberg 08.11.03)
44	08/13/2003	5.65%	Zix Corporation is selected by Blue Plans in New York for secure e-messaging and protection services(Business Wire)
45	08/18/2003	-1.76%	Zix Corporation announced its continuing strength in the New Jersey healthcare market with a 3-year contract from AtlantiCare, an integrated healthcare system based in Egg Harbor Township, New Jersey. AtlantiCare joins other leading New Jersey healthcare organizations that have selected Zix Corp. as their e-messaging protection provider including the New Jersey Hospital Association, Saint Barnabas Health Care System, Robert Wood Johnson University Hospital Health System, Solaris Health System, CentraState Healthcare System, Rahway Hospital, St. Joseph's Hospital and Medical Center, and QualCare(Business Wire)
46	08/20/2003	-4.93%	Zix Corporation introduces spam detection capability in ZixAuditor 2.0(Business Wire)
47	08/26/2003	0.53%	Zix Corporation announced that one of the largest captive finance companies in the country has completed the deployment of Zix Corp.'s secure e-messaging services. The company is using ZixPort(TM), an integrated secure e-messaging portal that can mirror the look and feel of any organization's existing Web portal. ZixPort enables over 300,000 customers to transmit confidential information to customer service representatives via secure email through the company's Web site. The California-based organization selected Zix Corp. services in April for its ability to seamlessly integrate with existing single sign-on network infrastructure, its quick deployment schedule, and its ability to customize the portal to match existing corporate branding(Business Wire)
48	09/02/2003	4.03%	Elron Electronic Industries Ltd. announced the sale of substantially all of the assets and business of its majority owned subsidiary, Elron Software Inc., provider of spam, email and web filtering solutions, to Zix Corporation. In consideration for the assets and business sold, Zix Corp. issued to Elron Software 1,709,402 shares of its common stock, with a market value of approximately \$6M and a \$1M convertible note bearing an interest rate of 5.75%. In addition, Zix Corp. assumed certain liabilities of Elron Software. Zix Corp. is a global provider of e-messaging protection and transaction services(Business Wire)
49	09/04/2003	14.50%	Zix Corporation selected by AllHealth as its recommended secure e-messaging provider(Business Wire 09.03.03); Zix Corporation signs John C. Lincoln Health Network with 3-year contract(Business Wire)
50	09/09/2003	11.93%	Zix Corporation announced it will conduct a Web seminar September 16 highlighting the risks healthcare organizations face with their email policies and how to ensure an effective secure e-messaging program(Bloomberg)

## Exhibit B Event Study Summary

Regression Window		1 Day Effect	T-statistic	Description
51	09/11/2003	2.14%	0.53	Zix Corporation announced that a 3-year agreement was signed for secure e-messaging with MemorialCare Medical Centers, a 5-hospital system located in Southern California(Dow Jones News Service)
52	09/18/2003	6.29%	1.54	Zix Corporation offers protection for organizations at risk of lawsuits by recording industry(Business Wire)
53	09/19/2003	20.58%	4.71	Zix Corp. signs pact with US Department of Treasury's Office of the Comptroller of the Currency for secure e-messaging(Business Wire 09.18.03)
54	09/26/2003	-3.77%	-0.97	Zix Corporation signs Children's Specialized Hospital with 3-year contract for secure e-messaging (Business Wire 09.25.03)
55	10/06/2003	6.06%	1.48	Zix Corporation announced a new version of ZixPort(TM), a secure Web-based messaging portal that adds secure communication capabilities to any corporate Web site(Business Wire)
56	10/07/2003	4.23%	1.04	Zix Corp. filed an 8-K on 10.07, in which the company reported that effective 09.30, it elected to convert the remaining outstanding shares of its Series A Convertible Preferred Stock and its Series B Convertible Preferred Stock into shares of the Registrants common stock. The closing price of the company's common stock exceeded specified prices for the required number of days, thus permitting the company to effect the conversion. 462,501 Series A shares and related accrued dividends were converted into 475,362 shares of the company's common stock, at a conversion rate of \$4.07 per share, and 778,312 Series B shares and related accrued dividends were converted into 795,223 shares of the company's common stock, at a conversion rate of \$3.76 per share(Market News Publishing)
57	10/10/2003	-5.23%	-1.35	Zix Corp. registered 1.99M shares of its common stock on behalf of Elron Electronic Industries Ltd, which received the shares in a September merger(Dow Jones Corporate Filings Alert 10.09.03)
58	10/20/2003	4.75%	1.17	Zix Corporation to provide Perdue Farms' healthcare clinics with e-prescribing technology(Business Wire)
59	10/22/2003	-3.01%	-0.77	Zix Corporation selected by Atlantic Health System with 3-year contract for email protection services(Business Wire);
60	10/24/2003	2.52%	0.63	Zix Corporation announced its Care Delivery Solutions Group has received the Investing in Information award from the Massachusetts Health Data Consortium (the Consortium) at HealthMart 2003 for its PocketScript solution, a PDA application that streamlines the medical prescription process by enabling providers to write and transmit prescriptions electronically (Business Wire)
61	10/27/2003	1.53%	0.38	Zix Corporation announced that Magellan Health Services, the nation's leading managed behavioral health and wellness company, has chosen Zix Corp. as its e-messaging protection provider. The 2-year contract will enable secure email communication between 7,000 users including licensed mental health professionals, patients, providers, and over 200 business partners to help meet the email safeguard requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA)(Business Wire)

## Exhibit B Event Study Summary

Regression Window	1 Day Effect	T-statistic	Description
62 10/30/2003	7.58%	1.84	Zix Corporation selected by Hackensack University Medical Center with 3-year contract for secure e-messaging(Business Wire)
63 10/31/2003	-0.24%	-0.06	Zix Corporation announced financial results for the third quarter ended September 30, 2003. Zix Corp. recorded a third quarter, 2003 net loss of \$6.5M, or 29¢ per share, an improvement of 26% compared to a net loss of \$8.8M, or 63¢ per share, for the corresponding quarter of 2002. Revenues were \$2.2M in the third quarter of 2003, an increase of 450% compared to \$400,000 in the third quarter of 2002. Cash and marketable securities balances as of September 30, 2003 were \$16.6M(Business Wire 10.30.03); 2 of Massachusetts' major insurers - Blue Cross Blue Shield of Massachusetts (BCBSMA) and Tufts Health Plan (THP) announced that they will have secured \$3M to fund an initiative to offer physicians a comprehensive e-prescribing program that will dramatically improve patient safety and reduce medical costs(Business Wire)
64 11/06/2003	-1.04%	-0.26	Dennis Heathcote, Vice President of Zix Corp. sold 9,800 shares at \$9.04, holdings n/a(Bloomberg 11.05.03); Wael Mohamed, Vice President of Zix Corp. sold 32,980 shares at \$9.00-\$9.01, holdings(Bloomberg 11.05.03)
65 11/12/2003	2.85%	0.71	Zix Corporation receives 5,500 user upgrades from Environment Canada for Web filtering services(Business Wire)
66 11/17/2003	2.07%	0.52	Zix Corporation announced that Group Health Incorporated (GHI), a statewide not-for-profit health insurer in New York, has signed a sponsorship agreement to expand its current Zix Corp. PocketScript(tm) e-prescribing program(Business Wire); Zix Corp.: Steve M. York files to sell 105,000 shares(Bloomberg 11.14.03)
67 11/19/2003	0.89%	0.22	Zix Corporation together with Farmington-based managed care company, ConnectiCare, have launched a 1 year pilot program to provide its PocketScript e-prescribing solution to physicians at New Britain's Grove Hill Medical Center, the largest independent multi-specialty healthcare clinic in the state of Connecticut(Business Wire 11.18.03)
68 11/21/2003	3.03%	0.75	Zix Corporation announced that BryanLGH Medical Center, a nonprofit healthcare organization based in Lincoln, Nebraska, has signed a 3-year contract with Zix Corp. for email protection services(Bloomberg)
69 11/24/2003	-3.30%	-0.84	Elron Electronic Industries Ltd. announced that it completed sales of approximately 850,000 shares of common stock of Zix Corporation for approximately \$7.1M, which shares were received as part of the sale of the assets and business of Elron's majority-owned subsidiary, Elron SW, Inc. (formerly Elron Software, Inc.) to Zix in September this year. Elron still holds approximately 850,000 shares of Zix and a \$1.0M convertible note(Business Wire 11.23.03)

## Exhibit B Event Study Summary

Regression Window	1 Day Effect	T-statistic	Description
70	12/02/2003	4.28%	Zix Corporation announced a contract with the Office of Thrift Supervision (OTS), a bureau of the US Department of the Treasury, for secure e-messaging to ensure confidential communications to all savings associations in the country. The OTS regulates and supervises all federally chartered and many state-chartered thrift institutions in order to maintain their safety, soundness, and compliance with consumer laws(Business Wire)
71	12/08/2003	-3.46%	Zix Corporation announced that Cedars-Sinai Medical Center, one of the largest nonprofit academic medical centers in the Western US, has selected Zix Corp. for its secure e-messaging services(Bloomberg)
72	12/12/2003	5.36%	Zix Corporation signs \$450,000 contract with one of the nation's leading health benefits companies(Business Wire)
73	12/17/2003	1.58%	Zix Corporation announced that it has completed the first stage of its second American Institute of Certified Public Accountants SysTrust(TM) certification review by Deloitte(Bloomberg)
74	12/31/2003	6.08%	Zix Corporation selected by Blue Cross and Blue Shield of Oklahoma for secure e-messaging services(Business Wire 12.30.03)
75	01/12/2004	2.57%	Zix Corporation and Blue Cross Blue Shield of Massachusetts (BCBSMA), and Tufts Health Plan, announced that CareGroup Healthcare System, based in Boston, Massachusetts, will deploy Zix Corp.'s PocketScript e-prescribing technology to an initial 500 physicians through an e-prescribing program called the "eRx Collaborative"(Bloomberg)
76	01/14/2004	2.27%	Zix Corporation announced that the Lancashire County Council, an administration in Northwest England governing over 1.3M citizens, has selected Zix Corp. as its secure email provider(Bloomberg)
77	01/20/2004	9.63%	Zix Corporation selected by Arizona Hospital and Healthcare Association Service Corporation as a preferred vendor(Business Wire)
78	01/21/2004	7.72%	Philadelphia Stock Exchange announced that it will begin trading nine new options one of which is Zix Corp(LexisNexis - M2 Presswire)
79	01/26/2004	8.00%	Zix Corporation appoints industry veteran Rick Spurr President and Chief Operating Officer. "Rick Spurr is a valuable and strategic addition to our senior management team, bringing us a world-class resource with a proven history of success," said John Ryan, Chairman, President and CEO for Zix Corp. "As we move Zix Corp. from an early-stage technology company to a high-growth company, acquiring personnel with the appropriate management skills is a crucial part of our growth strategy. I am thrilled that Rick has agreed to join the Zix Corp. team"(Business Wire)
80	01/27/2004	2.98%	Zix Corp mentioned in CBS Marketwatch article stating that "Zix is another stock that has a significant short position. About 24 percent of its outstanding shares are held in a short position. Shares have soared from \$6.50 to \$17 in just one month. This stock appears to be trading more on short-covering than fundamentals." (LexisNexis - CBS Marketwatch)

## Exhibit B Event Study Summary

Regression Window		1 Day Effect	T-statistic	Description
81	02/02/2004	<b>8.39%</b>	2.03 01.30.04)	Zix Corporation acquires the assets and business of MyDocOnline(Business Wire
82	<b>02/04/2004</b>	<b>-15.42%</b>	-4.20	Zix Corporation announced financial results for the fourth quarter ended December 31, 2003. Zix Corp. recorded a fourth quarter, 2003 net loss of \$8.2M, or 29¢ per share, compared to a net loss of 39¢ per share, for the corresponding quarter of 2002. Revenues were \$2.0M in the fourth quarter of 2003, an increase of 266% compared to \$546,000 in the fourth quarter of 2002. Cash and marketable securities balances as of December 31, 2003 were \$13.9M(Business Wire 02.03.04)
83	02/06/2004	<b>4.64%</b>	1.14	Pacific Exchange to trade Zix Corp. options February 9(Dow Jones News Service)
84	02/17/2004	<b>-0.59%</b>	-0.15 (HIPAA)(Business Wire)	Zix Corporation announced that Hunterdon Healthcare System, a nonprofit organization based in Flemington, New Jersey, has selected Zix Corp. as its secure e-messaging provider by signing a 3-year contract. The company will secure incoming and outgoing emails containing Protected Health Information (PHI) to meet the email security guidelines of the Health Insurance Portability and Accountability Act of 1996
85	02/19/2004	<b>-6.46%</b>	-1.68	Zix Corporation introduces personal financial lexicon for ZixVPM(Business Wire)
86	02/20/2004	<b>1.60%</b>	0.40	services(Bloomberg)
87	02/24/2004	<b>9.26%</b>	2.23	Zix Corporation announced the availability of Message Inspector 4.3, the latest version of its spam and email filtering solution(Business Wire)
88	03/02/2004	<b>7.53%</b>	1.83	Zix Corporation selected by Mercy Health System of Southeastern Pennsylvania for secure e-messaging services(Business Wire)
89	03/03/2004	<b>-4.29%</b>	-1.11	Zix Corporation was rated new "hold" in new coverage by analyst Gary R. Craft at Soleil Securities. The 12-month price target is \$12.50 per share(Bloomberg)
90	03/10/2004	<b>0.24%</b>	0.06	Rodman & Renshaw initiated coverage on Zix Corp. with a market outperform/speculative risk rating and a 12-month price target of \$16.00. "We believe that ZIXI is capitalizing on its penetration of the health care vertical with solutions such as anti-spam, content filtering, and secure messaging to become an applications service provider in the emerging Internet healthcare market with services such as e-prescriptions"(Analyst Report)
91	03/16/2004	<b>-0.19%</b>	-0.05	Zix Corporation announced that Texas-based CHRISTUS Health, one of the largest Catholic health systems in the country with more than 40 hospitals and long-term care facilities in more than 70 cities, has selected Zix Corp. to meet its secure e-messaging needs(Bloomberg)
92	<b>03/18/2004</b>	<b>-8.90%</b>	-2.35	Zix Corp. was downgraded to "sell" from "hold" by analyst Gary R. Craft at Soleil Securities. The price target is \$8.50 per share(Bloomberg)
93	03/23/2004	<b>5.50%</b>	1.35	Zix Corporation selected by Universal Health Services with 3-year contract for e-messaging services(Business Wire)

## Exhibit B Event Study Summary

Regression Window	1 Day Effect	T-statistic	Description
94	04/01/2004	<b>4.09%</b>	1.01 Zix Corporation announced the following appointments: Brad Almond has been promoted to the position of Vice President Finance and Administration and Chief Financial Officer; Daniel Sands, M.D., has joined Zix Corp. as Vice President and Chief Medical Officer(Business Wire)
95	04/06/2004	<b>2.70%</b>	0.67 Zix Corporation selected by First Indiana Bank for secure e-messaging services(Business Wire)
96	04/12/2004	<b>6.76%</b>	1.65 Zix Corp mentioned in a CBS Marketwatch column by Herb Greenberg stating that it's a popular short for some of his best sources and that he wrote,"I started mentioning it positively around \$9 because of its potential for its e-prescription business; it's now trading above \$16. Zix is vying for a piece of the business with a dozen or so other companies, but it's believed to be well ahead of the pack." (LexisNexis - CBS Marketwatch)
97	04/19/2004	<b>3.44%</b>	0.85 Zix Corporation announced that it has formed a strategic alliance with Phoenix Healthcare Management Services on behalf of VHA Georgia and its member organizations(Bloomberg)
98	04/30/2004	<b>-6.23%</b>	-1.62 Zix Corporation selected by Microsoft and WellPoint for e-prescribing initiative(Business Wire)
99	05/03/2004	<b>-3.91%</b>	-1.00 Zix Corporation mentioned in a CBS Marketwatch column by Herb Greenberg stating that it was interesting that the company waited until late Friday to issue a press release regarding Wellpoint and Microsoft. Additionally, the column's positive spin surrounds the potential revenue from the e-prescription business that should start showing up in its numbers in a meaningful way in another quarter or two(LexisNexis - CBS Marketwatch)
100	<b>05/04/2004</b>	<b>-6.55%</b>	-1.71 Rodman & Renshaw expects Zix Corporation to report \$2.95M in revenue and a net loss per share of (33¢). "While we note the top line is progressing with our estimates, we are looking for improvement in gross and operating margins as the company makes progress in its integration of MyDocOnline and Elron Software"(Analyst Report)
101	<b>05/05/2004</b>	<b>-15.40%</b>	-4.22 Zix reports 1Q revenues of \$2.8M, below the FC mean of \$3M. Net loss, ex items, was 30¢ per share, 3¢ wider than the Street view. For 2Q, the company expects revenue in the range of \$3.4 to \$3.8M, vs. the FC mean of \$4M(MidnightTrader 05.04.04); Zix Corporation is selected by Barnes-Jewish Hospital for laboratory connectivity services(Business Wire); Rodman & Renshaw has changed their revenue estimate on Zix Corporation to \$18.6M from \$22.6M. They also cut their EPS estimate for 2004 to a loss of \$(1.07) from (88¢) based on reported 1Q04 earnings(Analyst Report)
102	<b>05/06/2004</b>	<b>-21.16%</b>	-5.97 Herb Greenberg article "Can Zix find the right prescription?"(LexisNexis - CBS Marketwatch); TheStreet.com stated that investors continued their assault on Zix after reporting weaker-than-expected earnings(LexisNexis - TheStreet.com)

## Exhibit B Event Study Summary

Regression Window	1 Day Effect	T-statistic	Description
103	05/11/2004	<b>-1.20%</b>	-0.30 Zix Corporation announced that Message Inspector(TM), its anti-spam and email content filtering product, is now available as a Linux-based appliance(Bloomberg 05.10.04); Zix Corporation and GNYHA Ventures, Inc., a subsidiary of Greater New York Hospital Association, announced today that Zix Corp. will be its preferred vendor for secure e-messaging solutions(Bloomberg)
104	05/14/2004	<b>-8.12%</b>	-2.13 CBS mentionned that Marc Cuban was exiting his short position in Zix Corp because Mr. Cuban said he no longer had the time to do the research required to track the stock. In addition he said " When I asked myself whether I was the informed investor at the table or the sucker, I could't with confidence say i wasn't the sucker"(CBS Market Watch)
105	05/25/2004	<b>4.65%</b>	1.14 Zix Corporation secures a \$3.1M PocketScript e-prescribing order. A customer doubles their financial commitment for e-prescribing initiative(Business Wire)
106	05/26/2004	<b>-1.61%</b>	-0.41 Rodman & Renshaw wrote, "We anticipate increased operating expenses as ZIXI adds technicians and account reps to bolster e-prescribe adoption. We have changed our 2004 operating expenses estimate to \$41.8M from \$40.3M. Our EPS estimate is now (\$1.12) compared to (\$1.07) earlier. Our 2005 EPS estimate is now 10¢ (20¢ earlier)"(Analyst Report)
107	06/07/2004	<b>1.00%</b>	0.25 Zix Corporation announced it has completed its first full-year American Institute of Certified Public Accountants (AICPA) SysTrust certification audit of the ZixSecure Center, the world-class data center that handles operations for Zix Corp. services(Bloomberg)
108	06/08/2004	<b>2.13%</b>	0.53 Zix Corporation announced that Thrivent Financial for Lutherans, a Fortune 500 financial services organization, has signed a 1 year contract for Zix Corp.'s fully hosted anti-spam, anti-virus, and content filtering services. Thrivent selected Zix Corp.'s Message Inspector(TM) as an outsourced service to help reduce spam and prevent virus attacks to its 7,200 users(Business Wire)
109	06/15/2004	<b>-0.30%</b>	-0.08 Zix Corporation announced that Boston-based Caritas Christi Health Care System, New England's second largest healthcare system, has signed a 3-year contract to deploy Zix Corp.'s PocketScript e-prescribing technology to an initial 960 physicians(Bloomberg 06.14.04); Zix Corporation announced that SureScripts, a private company founded by the National Association of Chain Drug Stores and the National Community Pharmacists Association, signed an agreement to connect Zix Corp.'s PocketScript(TM) e-prescribing system to its SureScripts Messenger(TM) Services, the largest national e-prescribing network to link physician office applications and pharmacy management software(Bloomberg)
110	06/16/2004	<b>6.43%</b>	1.57 Zix Corporation is awarded an US patent for a secure message forwarding system. The company also announces a stock option grant(Business Wire)
111	06/22/2004	<b>2.02%</b>	0.50 Thomson Corp. subsidiary Thomson PDR has struck an agreement with Zix Corporation to integrate prescription drug briefs derived from Physicians Desk Reference into the Zix Corp. e-prescribing solution, PocketScript(Canada Stockwatch)

## Exhibit B Event Study Summary

Regression Window	1 Day Effect	T-statistic	Description
			Zix Corporation engaged Deloitte & Touche LLP as its independent registered public accounting firm to audit the company's financial statements for the current year, subject to Deloitte & Touche's satisfactory completion of its new client acceptance procedures. On June 16, 2004, the company also notified Ernst & Young LLP, its independent auditors for the year ended December 31, 2003 and previous years, of its election to dismiss Ernst & Young as the company's independent auditors. The foregoing has been approved by the Audit Committee of the company's Board of Directors(Knobias)
112	06/23/2004	-1.21%	-0.31
113	06/28/2004	-6.30%	-1.64 Zix Corporation joins Russell 3000 Index(Business Wire)
			Zix Corporation announced that it has been granted patent 6,760,752 for a secure transmission system used in its ZixMail(R), ZixVPM(R), and ZixPort(R) email encryption services. The patented system incorporates many innovations that make sending and receiving encrypted email easy. These innovations include real time public key retrieval, "transaction certificates," and sending encrypted messages using a non-SMTP protocol
114	07/08/2004	-10.47%	-2.77 through a forwarding server(Knobias)
115	07/12/2004	-6.39%	-1.65 George Weaver Haywood, Beneficial Owner, acquires 106,430 on 03.22.04 of Zix common stock(Bloomberg 07.09.04)
116	07/14/2004	0.02%	0.01 Zix Corporation awarded contract with Fortune 150 Financial(Bloomberg)
			Rodman & Renshaw lowered their 2Q04 revenue estimates for Zix Corporation to \$3.4M from \$3.8M based upon our belief that ZIXI's sales pipeline was affected by the recent slowdown in large enterprise IT spending(Analyst Report)
117	07/20/2004	4.85%	1.19 Zix Corporation announced it has formed a Content Policies Advisory Board to oversee its PocketScript(TM), MyDocOnline(TM), and Dr. Chart(R) care delivery applications(Business Wire)
118	07/26/2004	-8.15%	-2.14 Zix Corporation announced that Baycare Health Partners Inc. will support the adoption of Zix Corp.'s PocketScript(TM) e-prescribing technology offered through the eRx Collaborative, a program founded by Blue Cross Blue Shield of Massachusetts and Tufts Health Plan(Business Wire)
119	08/03/2004	-5.17%	-1.33 Zix Corporation says it had 2Q revenues of \$3.5M, just below the FC mean of \$4M. It said it lost 31¢ per share, compared to the FC mean for a 30¢ loss. 3Q revenues are seen between \$4 and \$4.4M versus the FC mean for \$5M. ZIXI says it will be restating financial statements for 1Q solely to change certain accounting relating to the acquisition of the assets of MyDocOnline on January 30. The adjustment is being made to add certain liabilities of approximately \$5.3M incurred in association with the acquisition, which will result in a corresponding increase primarily in the value of the assets acquired including goodwill. As a consequence, the net loss of the company in the first quarter of \$10.7M will be increased by \$264,000(MidnightTrader 08.05.04); Rodman & Renshaw lowered their price target for ZIXI from \$16 to \$8 due to (i) recent volatility and macro-economic events which have decreased sector valuation, (ii) weak enterprise IT spending and (iii) their lower 2005 revenue estimate of \$41.3M (down from
120	08/06/2004	-0.54%	-0.14 \$57M)(Analyst Report)

## Exhibit B Event Study Summary

Regression Window		1 Day Effect	T-statistic	Description
121	08/09/2004	-6.16%	-1.59	Zix Corporation selected by New York Bankers Service Corporation as an endorsed vendor(Business Wire)
122	08/25/2004	13.26%	3.13	Zix Corporation recognized on Dallas-Fort Worth Top 50 Fastest Growing Technology Companies List(Business Wire)
123	09/07/2004	3.52%	0.87	Zix Corporation learned, by means of a press release issued September 3, 2004, of the filing of a putative class action lawsuit in the US District Court for the Northern District of Texas against Zix Corp. and certain of its current and former officers. The suit, which has not yet been served, alleges that defendants made false and misleading statements and/or omissions in violation of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934. The suit seeks unspecified damages on behalf of a purported class of purchasers of the Zix Corp. common stock during the period from October 30, 2003 to May 4, 2004. Zix Corp. believes that the allegations are without merit and plans to defend the action vigorously(Business Wire 09.06.04); Zix Corporation announced that University Hospitals Health System, a Cleveland-based regional healthcare delivery system, with 8 wholly owned hospitals and 4 partner hospitals, has signed a 5-year contract naming Zix Corp. as its email security provider(Bloomberg)
124	09/08/2004	-3.13%	-0.80	Zix Corporation announced that Ardent Health Services LLC (Ardent), a Nashville-based healthcare operator with 35 hospitals in 14 states, has selected Zix Corp. as its secure email solution. Ardent joins other Nashville-area healthcare organizations that have chosen Zix Corp. to meet the security regulations of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), including Vangard Health Systems and Iasis Healthcare(Business Wire)
125	09/14/2004	-2.20%	-0.56	Zix Corporation announced that The Valley Hospital (Valley), a 451-bed fully accredited nonprofit hospital in Ridgewood, New Jersey, has selected Zix Corp.'s Dr. Chart service to provide laboratory client connectivity(Bloomberg)
126	09/27/2004	0.87%	0.22	Zix Corporation announced that Kaleida Health, the largest healthcare system in western New York, has signed a 3-year contract for Zix Corp. secure e-messaging services to help meet the security guidelines of the Health Insurance Portability and Accountability Act of 1996 (HIPAA)(Bloomberg)
127	09/29/2004	0.52%	0.13	Zix Corporation announced that Piedmont Medical Laboratory, a Virginia-based facility serving a 17-county service region, has signed a 3-year contract for Zix Corp.'s Dr. Chart(R) service to provide laboratory client connectivity(Bloomberg)
128	10/04/2004	5.50%	1.35	Zix Corporation announced that its PocketScript(R) e-prescribing application is being used by physicians to notify patients taking the anti-inflammatory drug Vioxx (Rofecoxib) about the drug's recent recall status(Business Wire)
129	10/05/2004	-0.59%	-0.15	Zix Corporation announced that the Office of the Comptroller of the Currency (OCC), a bureau of the US Department of the Treasury, has signed a renewal contract for secure e-messaging(Bloomberg)
130	10/06/2004	14.95%	3.51	Zix Corporation ranks third on Texas Top 50 Fastest Growing Tech Companies. The company ranks third in revenue growth for a 5-year period(Business Wire)

## Exhibit B Event Study Summary

Regression Window		1 Day Effect	T-statistic	Description
131	10/12/2004	10.20%	2.45	Zix Corporation is selected by Memorial Hermann Healthcare System with 3-year contract for secure e-messaging services(Business Wire)
132	10/19/2004	-3.69%	-0.95	Zix Corporation announced that an add-on S/MIME (Secure Multipurpose Internet Mail Extensions) feature of ZixVPM(R) (Virtual Private Messenger) has met the conformance requirements of The Open Group's S/MIME Gateway Product Standard(Bloomberg)
133	10/25/2004	-3.14%	-0.80	Zix Corporation announced the availability of the latest version of its Web filtering solution, Web Inspector(R) 7.1(Bloomberg)
134	10/26/2004	1.79%	0.45	Zix Corporation announced that Wake Forest University Baptist Medical Center (Wake Forest Baptist) has signed a contract naming Zix Corp. as its secure email solution(Bloomberg)
135	10/27/2004	2.87%	0.71	Zix Corporation develops and deploys technology for Massachusetts Health Data Consortium MedsInfo-ED Project(Business Wire)
136	11/02/2004	-8.85%	-2.34	Zix Corporation completes \$20M private placement(Business Wire)
137	11/05/2004	-8.34%	-2.19	Zix Corporation announced financial results for the third quarter ended September 30, 2004. Zix Corp. recorded third quarter revenues of \$3.9M, an increase of 74% compared to \$2.2M in the third quarter of 2003. Zix Corp. recorded a third quarter 2004 net loss of \$10.7M, or 33¢ per share, compared to a net loss of \$6.5M, or 29¢ per share, for the corresponding quarter of 2003. Cash and marketable securities balances as of September 30, 2004, were \$ 18.4M. The company received new orders of \$4.1M in the quarter compared to \$3.7M in the third quarter of 2003. "Our focus for Zix Corp. continues in our 2 core markets: e-prescribing and secure e-messaging. We have gained tremendous market leadership and believe these 2 areas will lead us to positive operating cash flows and, ultimately, profitability," said John A. Ryan, Chairman and Chief Executive Officer for Zix Corp. "We had another very successful quarter in our Care Delivery business, signing PocketScript end-user licensing agreements for more than 1,800 new prescribers and deploying 1,162 physicians with a fully functioning and
138	11/08/2004	0.70%	0.18	Zix Corporation announced that Suffolk County National Bank (SCNB), the second largest independent bank headquartered on Long Island, has signed a 3-year contract for Zix Corp.'s services(Bloomberg)
139	11/09/2004	0.92%	0.23	Zix Corporation announced that 2 third-party administrators -- Group & Pension Administrators, Inc. (GPA) of Richardson, Texas, and Pittman & Associates, Inc. of Memphis, Tennessee -- have selected Zix Corp. services to meet their communication protection needs(Bloomberg)
140	11/10/2004	6.29%	1.54	Zix Corporation is selected by Stormont-Vail HealthCare for e-messaging security(Business Wire)

## Exhibit B Event Study Summary

Regression Window	1 Day Effect	T-statistic	Description
141	11/15/2004	<b>-0.80%</b>	Zix Corporation announced that Sullivan County Government Center and Madison County have chosen Zix Corp. solutions to protect their networks from spam and unauthorized Internet use(Bloomberg); Rodman & Renshaw wrote, "ZIXI expects 4Q04 revenues in the \$3.9 - \$4.3M range and full year revenues in the \$14 - \$14.5M range. The company expects doctor deployments to range between 800-1000. We note that many doctors tend to be away during the holiday season and that could make e-prescribe deployment goals for 4Q04 challenging, in our view. However, we believe deployments should exceed 1,000 a quarter during 2005"(Analyst Report); Zix Corporation announced that Sullivan County Government Cneter and Madison County have chosen ZixCorp's solution to protect their networks from spam and unauthorized internet use (Business Wire Inc - Lexis Nexis)
142	11/29/2004	<b>6.29%</b>	Zix Corporation is selected by Ecom for secure e-messaging services. PPO Management Company signs 3-year contract for ZixVPM system-wide email protection(Business Wire)
143	11/30/2004	<b>-1.87%</b>	Zix Corporation announced that Children's Hospital in Omaha, Nebraska, has chosen Zix Corp. solutions to meet the secure email regulation of the Health Insurance Portability and Accountability Act of 1996 (HIPAA)(Bloomberg)
144	12/06/2004	<b>4.77%</b>	Zix Corporation announced it is providing PocketScript(R) e-prescribing to the Boston Health Care for the Homeless Program (BHCHP) in a 1-year trial outreach initiative through the eRx Collaborative(Bloomberg)
145	12/08/2004	<b>-0.07%</b>	Zix Corporation announced that Temple University Health System (TUHS), a Philadelphia-based system with a range of academic and community-based services, has selected Zix Corp. for system-wide communications protection services(Bloomberg)
146	12/13/2004	<b>0.38%</b>	Zix Corporation announced that Berkshire Health Systems (BHS), a private, not-for-profit system that serves as the preeminent provider of healthcare services to Berkshire County and surrounding communities in Massachusetts, has selected Zix Corp. solutions for system-wide email protection(Bloomberg)
147	12/14/2004	<b>-1.02%</b>	Zix Corporation announced 4 regional healthcare organizations that have recently chosen Zix Corp. as their secure email provider(Bloomberg)
148	12/15/2004	<b>-2.95%</b>	-0.75 George Weaver Haywood, Beneficial Owner, sells 229,500(Bloomberg 12.14.04)
149	12/27/2004	<b>5.11%</b>	1.26 George Weaver Haywood, Beneficial Owner, sells 317,000(Bloomberg 12.23.04)
150	01/04/2005	<b>-0.74%</b>	Zix Corporation announced that MultiPlan, Inc., one of the oldest and largest healthcare networks in the country, has renewed and expanded its current contract for Zix Corp. communications protection solutions(Bloomberg)

## Exhibit B Event Study Summary

Regression Window	1 Day Effect	T-statistic	Description
			Zix Corporation announced that the Office of Thrift Supervision (OTS), a bureau of the US Department of the Treasury, has signed a renewal contract for secure e-messaging(Bloomberg); Zix Corporation has signed contracts with 2200 doctors, including 650 at Lahey Clinic in Burlington and 700 at Caritas Christi Health care, to use the company's e-prescribing systme, executives said (The Boston Glob -Lexis Nexis)
151	01/10/2005	<b>-2.77%</b>	-0.71
152	01/14/2005	<b>3.12%</b>	0.77 to become a market leader(Analyst Report)
153	01/18/2005	<b>1.10%</b>	Zix Corporation announced that Focus Diagnostics, Inc. has signed a 3-year contract for Zix Corp.'s Dr. Chart online order entry and results reporting services(Bloomberg)
154	01/24/2005	<b>-4.39%</b>	Zix Corporation's service contract is renewed for Blue Cross of Northeastern Pennsylvania(Business Wire)
155	02/03/2005	<b>-1.35%</b>	-0.34 Zix Corp. applauds the president's push for healthcare IT(Bloomberg)
156	02/07/2005	<b>4.10%</b>	Zix Corporation announced the availability of its new ZixMail Executive(TM) package(Bloomberg)
157	02/08/2005	<b>1.19%</b>	1.01 Rodman & Renshaw forecasted total revenue of \$4.1M (7% sequential growth) and a net loss per share of (28¢), while consensus estimates are \$4.1M and (29¢) respectively(Analyst Report)
158	02/09/2005	<b>-12.66%</b>	0.30 Zix Corporation announces fourth quarter and year-end 2004 financial results. Zix says 4Q revenues rose to \$3.9M but was just shy of the FC mean for \$4M. It lost 32¢ per share, more than the FC mean estimate for a 29¢ loss. It also said its Chairman and CEO is resigning his CEO position. Effective immediately, the COO and President will also assume the role of acting CEO(Business Wire 02.08.05); Zix Corporation gains a contract with Tenet for secure e-messaging(Bloomberg); Zix Corporation was downgraded to "market perform" from "market outperform" by analyst Edward Ching at Rodman & Renshaw based on uncertainty in the near-term outlook for e-prescription, given the end of Wellpoint e-prescribe initiative(Analyst Report); Zix Corporation announced that it has signed a three-year contract with Tenet Healthcare Corporation to provide secure e-messaging (Business Wire -Lexis Nexis)
159	02/10/2005	<b>-0.62%</b>	-0.16 Zix Corporation announced the integration of its PocketScript e-prescribing application with MedAptus' electronic charge capture solution(Bloomberg)
160	02/14/2005	<b>1.68%</b>	0.42 Zix Corporation announced it has been selected to participate in the Georgia Hospital Health Services' (GHHS) HIPAA Security Vendor Alliance(Bloomberg)
161	02/15/2005	<b>-3.00%</b>	-0.77 Zix Corporation announced that the University of Medicine & Dentistry of New Jersey (UMDNJ), the nation's largest public university of health sciences, selected Zix Corp.'s ZixVPM(R) (Virtual Private Messenger) service for system-wide communications protection(Bloomberg)

## Exhibit B Event Study Summary

Regression Window		1 Day Effect	T-statistic	Description
162	02/22/2005	-3.33%	-0.85	Zix Corporation announced that Deaconess Health System based in Evansville, Indiana, has selected Zix Corp. for system-wide communications protection services(Bloomberg)
163	02/28/2005	3.59%	0.89	Zix Corporation announced the availability of the latest version of its enterprise-wide email encryption solution, ZixVPM(R) (Virtual Private Messenger)(Bloomberg)
164	03/01/2005	-0.61%	-0.15	Zix Corporation announced that Sierra Health Services, Inc. has selected Zix Corp.'s ZixVPM(R) (Virtual Private Messenger) and ZixPort(R) solutions for system-wide email protection(Bloomberg)
165	03/07/2005	2.74%	0.68	Zix Corporation announced that Wilber National Bank has signed a 3-year contract for Zix Corp.'s services(Bloomberg)
166	03/08/2005	9.04%	2.18	Zix Corporation announced that 3 regional healthcare organizations have recently chosen Zix Corp. as their secure email provider. Dallas Nephrology Associates (DNA), Southern Ocean County Hospital, and Community Memorial Hospital of San Buenaventura(Business Wire)
167	03/09/2005	-2.93%	-0.75	Zix Corporation announced that Triumph HealthCare, a Houston-based long-term acute care hospital company, has signed a 3-year contract for ZixVPM(R) (Virtual Private Messenger) for system-wide email encryption(Bloomberg)
168	03/14/2005	-3.86%	-0.99	Zix Corporation announced that it has sold its Message Inspector(R) and Web Inspector(R) products to CyberGuard Corporation in a transaction valued at \$4.0M, comprised of \$2.1M in cash paid at closing, a promissory note of \$1.5M payable during 2005, and accounts receivable of approximately \$0.4M being retained by Zix Corp.(Business Wire)
169	03/15/2005	-0.17%	-0.04	Zix Corporation announced that Ohio-based Liberty Savings Bank has signed a 3-year contract for Zix Corp.'s ZixVPM(R) (Virtual Private Messenger), ZixMail(R), and ZixPort(R) email protection services(Bloomberg); Rodman & Renshaw wrote, "ZIXI now expects 1Q05 revenues to range between \$3.3 - \$3.5M, down from its previous guidance of \$3.7 - \$4.0M. In our view, the revenue shortfall can be entirely attributed to the product divesture, as we believe the secure messaging side of the business is doing well. We have adjusted our estimates to reflect new management guidance. For 1Q05, we expect revenues of \$3.4M"(Analyst Report)
170	03/17/2005	6.99%	1.70	Zix Corporation announced that it has filed Form 12b-25 with the SEC for an automatic 15-day extension to file its Annual Report on Form 10-K for the year ended December 31, 2004(Business Wire 03.16.05)
171	03/28/2005	2.54%	0.63	Zix Corporation announced that acting Chief Executive Officer Rick Spurr has been appointed CEO(Bloomberg)
172	03/31/2005	-5.51%	-1.42	AirLogix, the most experienced and trusted leader in respiratory disease management, announced a 3-year agreement with Zix Corporation(PR Newswire)
173	04/01/2005	-10.04%	-2.67	Zix Corporation announced that St. Peters' Health care Services, a New York nonprofit healthcare system based in Albany, has signed a three-year contract for ZixCorp services (Business Wire - Lexis Nexis 03.30.2005)

## Exhibit B Event Study Summary

Regression Window	1 Day Effect	T-statistic	Description
174	04/04/2005	<b>-4.00%</b>	-1.03 Zix Corp.'s email protection services(Bloomberg); Zix Corporation announced that Eastern Connecticut Health Network (ECHN), the nonprofit parent company of 2 acute-care community hospitals, Manchester Memorial Hospital and Rockville General Hospital, has signed a 3-year contract for the full suite of
175	04/06/2005	<b>10.75%</b>	2.57 Zix Corporation announced it has successfully passed the industry's first payor-driven e-prescribing utilization study. This study, specified by Blue Cross Blue Shield of Massachusetts (BCBSMA), was designed to ensure continued utilization of physicians sponsored by the eRx Collaborative(Business Wire); Zix Corporation announced that 3 regional healthcare organizations have recently chosen Zix Corp. as their secure email provider: STAR Anesthesia, P.A., Community Medical Center of Scranton, Pennsylvania, and The Charlotte Hungerford Hospital(Business Wire); Highlights of rising and falling U.S. stocks.Zix Corp shares jumped more than 10% after the company said its electronic prescription system successfully met the requirements of a utilization study it completed with the BCBSMA.(MarketWatch);
176	04/12/2005	<b>5.48%</b>	1.34 Zix Corporation announced that South Shore Medical Center, a multi-specialty private practice with locations in Norwell and Kingston Massachusetts, has signed a contract to deploy Zix Corp.'s PocketScript(R) e-prescribing technology to its 48 prescribers(Business Wire)
177	04/14/2005	<b>-7.37%</b>	-1.93 Zix Corporation has entered into definitive agreements with the holders of its \$20M convertible notes (due 2005 - 2008 as originally issued by the company in November 2004). These definitive agreements relate to the previously announced changes to certain terms of the convertible notes and related warrants(Business Wire 04.13.05); Zix Corp to redeem \$10M of senior convertible notes.(MarketWatch 04.13.2005)
178	04/20/2005	<b>-1.54%</b>	-0.39 Zix Corporation announced that 3 healthcare organizations have recently chosen ZixVPM (Virtual Private Messenger) as their secure email solution: AirLogix, Charlotte Radiology, and Langlade Memorial Hospital(Bloomberg)
179	04/25/2005	<b>4.54%</b>	1.12 Zix Corporation announced that Sumter Regional Hospital, a leading employer in southwest Georgia, has signed a 3-year contract for Zix Corp.'s ZixVPM(R) (Virtual Private Messenger) and ZixPort(R) secure email solutions(Bloomberg)
180	04/26/2005	<b>0.93%</b>	0.23 Zix Corporation announced that Northeast Georgia Health System has renewed its 3-year contract for the Dr. Chart(R) online order entry and results reporting service(Bloomberg)

# EXHIBIT C

**EXHIBIT 'C'**  
**Zix Corporation Trade Information and S&P 600 INFO TECH INDEX**

Date	ZIX					S6INFT
	Px High	Px Low	Px Open	Px Last	Px Volume	Px Last
10/30/2002	4.63	4.07	4.41	4.07	304,412.00	113.39
10/31/2002	4.20	3.90	4.20	4.05	182,700.00	113.64
11/1/2002	4.24	3.89	3.99	4.18	292,400.00	117.54
11/4/2002	4.25	4.00	4.24	4.14	182,600.00	121.95
11/5/2002	4.08	3.95	4.08	4.00	63,500.00	121.34
11/6/2002	4.05	3.86	4.00	4.00	89,561.00	124.41
11/7/2002	4.15	3.95	4.10	4.14	74,300.00	120.31
11/8/2002	4.15	3.90	4.15	3.92	31,300.00	118.77
11/11/2002	3.97	3.85	3.92	3.91	40,178.00	113.20
11/12/2002	4.00	3.86	3.92	3.86	40,100.00	116.26
11/13/2002	4.02	3.82	4.02	3.89	26,550.00	117.64
11/14/2002	3.89	3.75	3.89	3.84	54,600.00	122.81
11/15/2002	3.94	3.72	3.75	3.85	52,974.00	122.55
11/18/2002	3.91	3.71	3.86	3.80	66,700.00	122.24
11/19/2002	3.82	3.60	3.63	3.74	63,751.00	120.75
11/20/2002	4.00	3.60	3.74	3.67	72,800.00	125.16
11/21/2002	3.94	3.67	3.70	3.89	99,394.00	131.17
11/22/2002	4.04	3.81	3.90	3.99	116,100.00	132.04
11/25/2002	4.05	3.96	4.01	4.00	191,500.00	135.22
11/26/2002	4.09	3.92	4.01	4.00	257,200.00	132.02
11/27/2002	4.04	3.95	3.98	4.00	242,303.00	136.82
11/29/2002	4.10	3.88	4.09	3.88	718,450.00	134.67
12/2/2002	4.04	3.90	3.90	3.93	542,860.00	136.52
12/3/2002	4.04	3.95	4.00	4.00	201,400.00	132.49
12/4/2002	4.49	3.95	4.00	4.35	291,845.00	128.07
12/5/2002	4.47	4.15	4.42	4.22	168,500.00	126.31
12/6/2002	4.52	4.20	4.21	4.52	140,016.00	126.52
12/9/2002	5.15	4.49	4.49	5.00	412,614.00	120.63
12/10/2002	5.45	4.78	5.32	5.00	222,380.00	124.46
12/11/2002	5.09	4.81	5.00	4.85	108,509.00	123.86
12/12/2002	5.44	4.76	4.76	5.25	400,600.00	124.70
12/13/2002	5.60	5.20	5.32	5.51	351,000.00	121.42
12/16/2002	5.80	5.25	5.65	5.29	253,719.00	124.52
12/17/2002	5.30	4.96	5.29	5.03	202,264.00	123.42
12/18/2002	5.03	4.55	5.03	5.00	505,489.00	119.48
12/19/2002	4.99	4.55	4.85	4.67	122,154.00	118.39
12/20/2002	4.85	4.55	4.60	4.66	132,850.00	119.24
12/23/2002	5.10	4.56	4.57	4.98	166,000.00	120.62
12/24/2002	4.94	4.69	4.78	4.72	49,800.00	119.93
12/26/2002	4.89	4.65	4.70	4.75	101,200.00	120.44
12/27/2002	4.75	4.60	4.65	4.68	105,893.00	119.41
12/30/2002	4.70	4.50	4.56	4.51	103,681.00	118.39
12/31/2002	4.58	4.40	4.50	4.41	118,554.00	118.87
1/2/2003	4.59	4.12	4.49	4.18	152,016.00	123.38
1/3/2003	4.35	4.10	4.20	4.29	138,500.00	123.24
1/6/2003	4.41	4.21	4.24	4.28	164,800.00	127.04
1/7/2003	4.50	4.26	4.26	4.39	108,295.00	126.88
1/8/2003	4.74	4.36	4.37	4.50	91,900.00	124.39

Date	ZIX					S6INFT
	Px High	Px Low	Px Open	Px Last	Px Volume	Px Last
1/9/2003	4.75	4.41	4.41	4.65	93,000.00	127.85
1/10/2003	4.71	4.54	4.66	4.55	87,600.00	129.29
1/13/2003	4.74	4.56	4.57	4.67	70,464.00	129.06
1/14/2003	5.08	4.65	4.90	4.88	231,950.00	129.82
1/15/2003	5.05	4.85	4.88	4.97	113,900.00	128.34
1/16/2003	5.13	4.97	4.97	5.02	102,100.00	126.40
1/17/2003	5.05	4.73	5.05	4.89	145,050.00	122.40
1/21/2003	4.95	4.63	4.94	4.69	139,600.00	120.83
1/22/2003	4.77	4.25	4.77	4.38	212,568.00	121.25
1/23/2003	4.57	4.24	4.55	4.30	65,200.00	123.31
1/24/2003	4.42	4.11	4.42	4.12	74,100.00	120.08
1/27/2003	4.24	3.98	4.10	4.21	114,069.00	117.93
1/28/2003	4.30	4.05	4.14	4.30	47,900.00	119.15
1/29/2003	4.31	4.09	4.31	4.13	50,515.00	120.48
1/30/2003	4.25	4.05	4.24	4.09	52,400.00	117.56
1/31/2003	4.19	4.04	4.10	4.19	57,675.00	118.32
2/3/2003	4.45	4.10	4.15	4.29	124,600.00	117.89
2/4/2003	4.34	4.11	4.16	4.23	41,100.00	117.77
2/5/2003	4.31	4.15	4.31	4.24	45,200.00	117.66
2/6/2003	4.35	4.18	4.32	4.29	59,300.00	116.77
2/7/2003	4.46	4.20	4.20	4.31	107,541.00	114.13
2/10/2003	4.65	4.34	4.35	4.65	60,400.00	115.57
2/11/2003	4.85	4.52	4.68	4.54	60,291.00	115.22
2/12/2003	4.55	4.26	4.50	4.27	64,800.00	113.60
2/13/2003	4.25	4.00	4.24	4.04	103,600.00	113.22
2/14/2003	4.10	3.93	4.10	4.00	86,030.00	116.05
2/18/2003	4.28	4.00	4.20	4.16	59,300.00	118.21
2/19/2003	4.14	3.93	4.06	4.09	26,400.00	116.38
2/20/2003	4.23	3.98	4.15	4.10	51,000.00	116.83
2/21/2003	4.57	3.97	3.97	4.57	140,500.00	117.82
2/24/2003	4.69	4.30	4.60	4.65	84,800.00	115.72
2/25/2003	5.01	4.41	4.62	4.43	48,180.00	116.15
2/26/2003	4.55	4.28	4.40	4.28	68,300.00	114.29
2/27/2003	4.75	4.29	4.29	4.62	103,400.00	115.45
2/28/2003	4.88	4.64	4.72	4.75	67,000.00	116.19
3/3/2003	4.85	4.71	4.80	4.73	51,200.00	114.62
3/4/2003	4.84	4.54	4.71	4.63	36,200.00	112.77
3/5/2003	4.83	4.25	4.56	4.31	71,586.00	111.84
3/6/2003	4.37	3.90	3.95	4.27	137,800.00	111.24
3/7/2003	4.39	4.25	4.27	4.30	39,195.00	110.69
3/10/2003	4.50	4.18	4.31	4.21	139,200.00	107.69
3/11/2003	4.38	4.10	4.21	4.34	74,119.00	106.95
3/12/2003	4.45	4.26	4.26	4.37	46,038.00	105.88
3/13/2003	4.50	4.30	4.30	4.39	24,929.00	110.75
3/14/2003	4.50	4.30	4.30	4.38	81,900.00	110.30
3/17/2003	4.55	4.30	4.42	4.50	61,875.00	115.35
3/18/2003	4.55	4.38	4.49	4.51	42,900.00	116.84
3/19/2003	4.55	4.39	4.40	4.50	76,614.00	116.01
3/20/2003	4.50	4.35	4.35	4.48	42,600.00	116.96
3/21/2003	4.60	4.41	4.50	4.50	240,300.00	118.59

Date	ZIX					S6INFT
	Px High	Px Low	Px Open	Px Last	Px Volume	Px Last
3/24/2003	4.50	4.38	4.40	4.43	36,200.00	114.83
3/25/2003	4.51	4.39	4.39	4.45	30,950.00	116.25
3/26/2003	4.54	4.45	4.45	4.46	29,200.00	115.39
3/27/2003	4.50	4.38	4.45	4.40	30,400.00	115.48
3/28/2003	4.49	4.32	4.39	4.45	32,900.00	115.03
3/31/2003	4.50	4.29	4.50	4.30	50,700.00	113.25
4/1/2003	4.43	4.24	4.40	4.25	34,614.00	114.23
4/2/2003	4.55	4.26	4.34	4.55	152,100.00	118.05
4/3/2003	4.55	4.43	4.55	4.50	48,700.00	117.89
4/4/2003	4.55	4.47	4.50	4.52	132,600.00	115.70
4/7/2003	4.75	4.45	4.51	4.50	103,400.00	117.44
4/8/2003	4.50	4.36	4.50	4.48	34,099.00	115.48
4/9/2003	4.59	4.37	4.59	4.44	38,500.00	114.08
4/10/2003	4.44	4.34	4.44	4.34	27,200.00	113.52
4/11/2003	4.59	4.23	4.59	4.33	41,100.00	113.26
4/14/2003	4.49	4.22	4.22	4.48	34,800.00	115.88
4/15/2003	4.58	4.33	4.58	4.38	63,558.00	117.19
4/16/2003	4.49	4.23	4.43	4.35	46,435.00	117.63
4/17/2003	4.50	4.21	4.49	4.28	71,900.00	120.08
4/21/2003	4.54	4.20	4.21	4.53	217,400.00	121.81
4/22/2003	4.62	4.45	4.55	4.46	139,010.00	123.56
4/23/2003	4.67	4.30	4.47	4.65	165,325.00	124.46
4/24/2003	5.25	4.56	4.57	5.21	332,814.00	123.56
4/25/2003	5.40	4.45	5.38	4.59	193,700.00	120.22
4/28/2003	4.70	4.49	4.69	4.68	96,060.00	123.06
4/29/2003	4.75	4.58	4.58	4.65	62,275.00	123.84
4/30/2003	5.09	4.63	4.94	4.87	164,750.00	124.77
5/1/2003	5.00	4.83	4.87	4.93	70,500.00	124.39
5/2/2003	5.30	4.93	4.93	5.26	208,800.00	128.14
5/5/2003	5.43	5.15	5.15	5.30	232,659.00	129.44
5/6/2003	5.40	5.15	5.30	5.24	138,900.00	130.45
5/7/2003	5.30	5.12	5.29	5.13	79,900.00	128.93
5/8/2003	5.20	4.85	5.09	5.04	133,000.00	127.53
5/9/2003	5.12	4.90	5.06	5.00	37,300.00	129.80
5/12/2003	5.09	4.85	5.09	4.95	70,400.00	131.72
5/13/2003	4.95	4.85	4.85	4.90	152,900.00	131.56
5/14/2003	5.00	4.84	4.86	5.00	87,545.00	131.55
5/15/2003	5.05	4.91	5.04	4.92	97,500.00	132.47
5/16/2003	5.10	4.86	5.10	4.97	101,530.00	128.85
5/19/2003	5.12	4.90	4.95	4.95	95,550.00	125.94
5/20/2003	4.94	4.69	4.85	4.70	79,000.00	126.34
5/21/2003	5.05	4.65	5.05	4.77	50,200.00	126.28
5/22/2003	5.17	4.74	4.92	4.99	88,537.00	128.04
5/23/2003	4.85	4.61	4.84	4.70	84,250.00	128.41
5/27/2003	4.70	4.57	4.60	4.57	61,350.00	133.30
5/28/2003	4.53	4.08	4.45	4.19	286,215.00	134.98
5/29/2003	4.33	4.12	4.18	4.18	110,900.00	137.12
5/30/2003	4.55	4.25	4.35	4.32	223,226.00	140.81
6/2/2003	4.68	4.33	4.40	4.45	149,770.00	140.99
6/3/2003	4.58	4.35	4.50	4.35	66,400.00	141.25

Date	ZIX					S6INFT	
	Px High	Px Low	Px Open	Px Last	Px Volume	Px	Last
6/4/2003	4.44	4.20	4.25	4.25	103,515.00	144.52	
6/5/2003	4.49	4.21	4.37	4.30	135,846.00	146.45	
6/6/2003	4.40	4.20	4.38	4.21	160,435.00	145.57	
6/9/2003	4.36	4.15	4.30	4.16	99,500.00	141.48	
6/10/2003	4.30	4.18	4.18	4.30	44,650.00	142.88	
6/11/2003	4.30	4.16	4.30	4.18	59,300.00	143.57	
6/12/2003	4.52	4.06	4.18	4.30	329,004.00	144.83	
6/13/2003	4.45	4.29	4.42	4.33	53,700.00	141.55	
6/16/2003	4.49	4.30	4.33	4.39	69,600.00	144.43	
6/17/2003	4.55	4.40	4.40	4.50	151,900.00	146.33	
6/18/2003	4.52	4.36	4.41	4.39	77,110.00	147.92	
6/19/2003	4.48	4.24	4.31	4.25	125,530.00	145.73	
6/20/2003	4.41	4.14	4.28	4.36	120,182.00	144.87	
6/23/2003	4.30	4.06	4.30	4.07	153,200.00	140.42	
6/24/2003	4.25	4.09	4.11	4.25	69,361.00	140.36	
6/25/2003	4.18	3.99	4.15	4.04	112,176.00	140.84	
6/26/2003	4.19	3.86	4.04	4.00	515,400.00	143.35	
6/27/2003	4.05	3.79	4.00	3.85	162,400.00	143.98	
6/30/2003	4.00	3.72	3.84	3.77	119,900.00	143.63	
7/1/2003	3.85	3.65	3.72	3.78	202,109.00	144.29	
7/2/2003	3.99	3.73	3.81	3.73	81,189.00	149.18	
7/3/2003	3.88	3.74	3.75	3.88	40,523.00	147.58	
7/7/2003	4.25	3.75	3.85	4.05	434,842.00	152.60	
7/8/2003	4.30	4.05	4.12	4.10	212,600.00	157.67	
7/9/2003	4.10	3.85	4.07	3.86	168,940.00	159.60	
7/10/2003	3.91	3.68	3.90	3.80	130,150.00	156.34	
7/11/2003	3.95	3.75	3.80	3.95	44,500.00	157.66	
7/14/2003	4.00	3.70	3.95	3.80	116,100.00	160.84	
7/15/2003	3.94	3.69	3.76	3.73	116,545.00	161.01	
7/16/2003	3.83	3.68	3.74	3.69	77,644.00	158.46	
7/17/2003	3.80	3.65	3.67	3.65	56,376.00	151.08	
7/18/2003	3.80	3.65	3.79	3.74	14,600.00	152.35	
7/21/2003	3.99	3.57	3.98	3.66	107,724.00	149.32	
7/22/2003	3.84	3.61	3.65	3.70	71,552.00	153.14	
7/23/2003	3.95	3.75	3.82	3.93	108,091.00	154.53	
7/24/2003	4.16	3.93	3.95	4.09	203,145.00	154.30	
7/25/2003	4.15	3.70	3.95	3.84	105,167.00	155.58	
7/28/2003	3.99	3.61	3.86	3.79	120,881.00	158.21	
7/29/2003	3.92	3.60	3.92	3.67	58,300.00	157.06	
7/30/2003	3.85	3.63	3.63	3.71	118,626.00	154.98	
7/31/2003	3.86	3.67	3.70	3.76	80,751.00	155.93	
8/1/2003	3.87	3.62	3.87	3.77	147,101.00	154.39	
8/4/2003	3.82	3.66	3.71	3.72	35,000.00	154.69	
8/5/2003	3.79	3.51	3.70	3.63	78,650.00	151.82	
8/6/2003	3.77	3.54	3.54	3.57	19,894.00	149.35	
8/7/2003	3.72	3.48	3.70	3.64	103,880.00	147.81	
8/8/2003	3.68	3.56	3.56	3.59	68,170.00	146.89	
8/11/2003	3.70	3.40	3.70	3.50	157,300.00	149.36	
8/12/2003	3.50	3.10	3.50	3.13	272,043.00	152.75	
8/13/2003	3.34	3.16	3.19	3.32	161,790.00	154.76	

Date	ZIX					S6INFT	
	Px High	Px Low	Px Open	Px Last	Px Volume	Px	Last
8/14/2003	3.44	3.25	3.30	3.39	109,500.00	156.24	
8/15/2003	3.58	3.26	3.26	3.58	105,900.00	156.81	
8/18/2003	3.67	3.50	3.54	3.60	50,731.00	162.05	
8/19/2003	3.60	3.45	3.53	3.52	92,705.00	165.69	
8/20/2003	3.59	3.36	3.59	3.36	42,490.00	166.57	
8/21/2003	3.49	3.25	3.32	3.45	52,973.00	169.64	
8/22/2003	3.45	3.30	3.45	3.39	41,564.00	166.99	
8/25/2003	3.40	3.27	3.34	3.39	82,131.00	165.44	
8/26/2003	3.42	3.30	3.42	3.40	58,400.00	165.49	
8/27/2003	3.38	3.09	3.37	3.36	136,345.00	167.64	
8/28/2003	3.54	3.30	3.41	3.52	139,831.00	170.58	
8/29/2003	3.66	3.37	3.37	3.65	61,034.00	171.58	
9/2/2003	3.85	3.55	3.65	3.84	135,926.00	174.89	
9/3/2003	4.02	3.79	3.85	3.94	224,408.00	176.67	
9/4/2003	4.74	3.91	4.00	4.55	590,374.00	178.77	
9/5/2003	4.75	4.34	4.71	4.45	432,195.00	177.88	
9/8/2003	4.59	4.33	4.59	4.37	203,791.00	181.46	
9/9/2003	5.00	4.20	4.33	4.91	1,129,486.00	179.80	
9/10/2003	5.13	4.62	5.00	4.86	293,193.00	172.69	
9/11/2003	5.05	4.63	4.94	5.02	116,561.00	174.85	
9/12/2003	5.14	4.75	5.14	4.90	69,596.00	174.78	
9/15/2003	5.39	4.80	5.00	5.15	218,395.00	173.40	
9/16/2003	5.66	5.10	5.57	5.63	413,401.00	177.88	
9/17/2003	7.23	5.70	5.79	7.00	1,590,110.00	178.40	
9/18/2003	7.50	6.95	7.30	7.45	1,280,188.00	179.20	
9/19/2003	10.00	8.84	9.89	8.98	4,538,738.00	178.27	
9/22/2003	9.50	8.17	9.01	8.45	1,504,428.00	175.12	
9/23/2003	8.73	7.82	8.51	7.84	933,367.00	177.87	
9/24/2003	8.58	7.72	7.99	7.89	887,806.00	171.69	
9/25/2003	8.36	7.81	7.99	7.90	471,345.00	167.10	
9/26/2003	8.48	7.40	8.32	7.45	434,135.00	162.49	
9/29/2003	8.05	7.41	7.55	8.05	365,825.00	166.26	
9/30/2003	8.25	7.65	8.05	8.10	478,889.00	163.11	
10/1/2003	8.24	7.95	8.11	8.15	285,381.00	166.93	
10/2/2003	8.21	7.97	8.11	8.19	209,447.00	168.51	
10/3/2003	8.75	7.95	8.14	8.18	474,872.00	175.06	
10/6/2003	10.10	8.33	9.18	8.75	664,567.00	176.58	
10/7/2003	9.21	8.78	8.84	9.19	609,652.00	179.07	
10/8/2003	9.50	9.07	9.50	9.07	404,532.00	177.01	
10/9/2003	9.40	8.76	9.40	9.05	313,645.00	178.65	
10/10/2003	9.08	8.51	9.05	8.54	239,079.00	177.69	
10/13/2003	8.60	7.80	8.60	7.82	485,183.00	180.81	
10/14/2003	8.15	7.61	7.61	7.86	428,258.00	182.79	
10/15/2003	8.10	7.90	8.00	8.00	202,899.00	182.68	
10/16/2003	8.24	7.90	8.04	7.98	342,978.00	184.09	
10/17/2003	8.09	7.81	8.09	7.88	190,106.00	179.22	
10/20/2003	8.40	7.70	7.88	8.30	518,100.00	180.00	
10/21/2003	8.48	7.95	8.14	8.38	257,098.00	182.81	
10/22/2003	8.50	7.84	8.49	7.95	251,778.00	176.85	
10/23/2003	7.95	7.55	7.70	7.80	306,343.00	172.87	

Date	ZIX					S6INFT
	Px High	Px Low	Px Open	Px Last	Px Volume	Px Last
10/24/2003	8.00	7.56	7.71	7.92	173,961.00	170.65
10/27/2003	8.11	7.75	8.10	8.10	225,654.00	173.71
10/28/2003	8.75	7.95	7.95	8.56	320,479.00	179.97
10/29/2003	8.95	8.30	8.56	8.88	369,007.00	182.56
10/30/2003	9.85	8.96	9.00	9.50	977,451.00	182.12
10/31/2003	9.77	8.74	9.31	9.40	756,489.00	180.40
11/3/2003	9.50	8.89	9.32	8.99	584,508.00	186.69
11/4/2003	9.00	8.70	8.97	8.90	193,591.00	187.55
11/5/2003	9.15	8.83	9.00	9.02	844,242.00	187.78
11/6/2003	9.05	8.70	8.90	8.98	181,801.00	189.58
11/7/2003	9.00	8.51	8.63	8.63	306,845.00	189.79
11/10/2003	8.85	8.61	8.69	8.77	137,737.00	184.89
11/11/2003	8.80	8.35	8.80	8.69	218,060.00	182.96
11/12/2003	9.13	8.65	8.69	9.09	221,905.00	188.83
11/13/2003	9.55	8.85	9.02	9.47	450,202.00	188.83
11/14/2003	9.65	9.00	9.50	9.09	192,219.00	183.97
11/17/2003	9.17	8.75	9.00	9.08	168,307.00	180.62
11/18/2003	9.29	8.65	9.05	8.66	250,439.00	178.20
11/19/2003	9.09	8.40	8.80	8.80	252,353.00	179.64
11/20/2003	8.89	8.25	8.89	8.29	426,607.00	179.13
11/21/2003	8.58	8.30	8.35	8.54	1,736,786.00	179.04
11/24/2003	8.70	8.33	8.65	8.46	236,208.00	185.20
11/25/2003	8.58	8.06	8.23	8.13	237,921.00	186.06
11/26/2003	8.27	8.10	8.10	8.20	142,225.00	185.68
11/28/2003	8.77	8.18	8.28	8.76	214,657.00	186.53
12/1/2003	8.94	8.56	8.63	8.79	189,679.00	189.27
12/2/2003	9.24	8.79	8.89	9.12	437,861.00	188.31
12/3/2003	9.25	8.25	9.15	8.44	236,153.00	183.63
12/4/2003	8.58	8.22	8.26	8.30	173,558.00	182.05
12/5/2003	8.28	8.00	8.22	8.01	218,385.00	178.76
12/8/2003	8.49	7.59	8.00	7.70	346,963.00	178.71
12/9/2003	7.75	7.30	7.67	7.46	247,188.00	173.82
12/10/2003	7.54	6.71	7.54	6.79	765,223.00	171.76
12/11/2003	7.00	6.65	6.80	6.75	424,612.00	178.55
12/12/2003	7.64	6.66	6.94	7.16	976,667.00	180.04
12/15/2003	7.65	6.85	7.22	6.85	270,792.00	174.16
12/16/2003	7.25	6.36	6.88	6.40	409,762.00	173.73
12/17/2003	6.66	6.40	6.40	6.50	162,948.00	173.83
12/18/2003	7.00	6.45	6.70	6.95	384,392.00	177.80
12/19/2003	7.14	6.75	6.77	7.11	363,560.00	177.52
12/22/2003	7.15	6.91	7.00	7.03	202,163.00	178.45
12/23/2003	7.70	6.95	7.12	7.62	371,654.00	181.61
12/24/2003	7.96	7.50	7.65	7.74	236,260.00	180.24
12/26/2003	8.13	7.80	7.90	8.06	144,144.00	181.15
12/29/2003	8.10	7.81	8.00	7.88	245,360.00	184.50
12/30/2003	8.36	7.78	7.90	8.26	373,923.00	185.19
12/31/2003	8.99	8.40	8.50	8.69	749,561.00	182.60
1/2/2004	8.63	8.04	8.63	8.22	357,336.00	183.78
1/5/2004	8.92	8.21	8.25	8.60	495,650.00	190.24
1/6/2004	9.17	8.57	8.60	9.15	713,376.00	191.30

Date	ZIX					S6INFT	
	Px High	Px Low	Px Open	Px Last	Px Volume	Px	Last
1/7/2004	9.27	8.90	9.20	9.01	427,496.00	194.29	
1/8/2004	9.33	9.01	9.14	9.18	681,857.00	196.99	
1/9/2004	11.18	9.15	9.25	10.93	1,803,934.00	194.76	
1/12/2004	11.53	10.52	11.25	11.35	1,201,018.00	198.68	
1/13/2004	11.60	10.60	11.45	11.10	698,018.00	196.87	
1/14/2004	12.11	11.05	11.60	11.40	1,149,484.00	198.33	
1/15/2004	12.35	11.29	11.29	12.35	948,103.00	198.34	
1/16/2004	13.83	12.46	12.53	12.57	2,550,807.00	201.32	
1/20/2004	14.45	13.35	13.88	14.09	1,877,404.00	205.53	
1/21/2004	15.60	13.90	14.35	14.90	1,973,779.00	202.05	
1/22/2004	15.13	13.90	15.00	14.10	1,232,388.00	198.50	
1/23/2004	14.96	13.93	14.30	14.67	774,421.00	200.83	
1/26/2004	16.25	14.67	14.89	15.99	1,260,396.00	202.60	
1/27/2004	17.50	16.12	16.30	16.14	1,826,283.00	197.30	
1/28/2004	16.90	15.50	16.17	15.84	1,172,405.00	194.61	
1/29/2004	16.35	13.94	16.35	14.86	1,399,730.00	191.83	
1/30/2004	15.17	13.92	14.61	15.10	1,223,388.00	193.64	
2/2/2004	16.75	15.52	16.23	16.28	1,005,600.00	192.30	
2/3/2004	16.75	15.18	16.17	15.35	943,756.00	190.77	
2/4/2004	13.90	12.36	13.80	12.57	2,139,105.00	183.77	
2/5/2004	13.61	11.60	13.15	11.90	1,341,191.00	185.21	
2/6/2004	12.78	11.60	11.90	12.78	639,893.00	192.91	
2/9/2004	13.94	12.80	12.87	13.63	816,479.00	192.86	
2/10/2004	14.40	13.23	13.58	14.16	623,870.00	195.45	
2/11/2004	14.49	13.56	14.45	13.86	655,954.00	196.25	
2/12/2004	13.90	13.30	13.90	13.40	314,903.00	193.79	
2/13/2004	13.55	12.56	13.53	12.91	480,879.00	190.87	
2/17/2004	13.40	12.89	12.95	13.00	352,185.00	195.14	
2/18/2004	13.09	12.90	12.98	13.00	240,056.00	194.80	
2/19/2004	13.20	11.97	13.00	12.00	700,459.00	190.71	
2/20/2004	12.44	11.76	12.32	12.06	662,415.00	188.66	
2/23/2004	12.32	10.44	12.29	10.80	1,570,219.00	183.69	
2/24/2004	11.79	10.61	11.11	11.78	1,129,277.00	183.15	
2/25/2004	12.98	11.88	12.04	12.18	969,129.00	186.14	
2/26/2004	12.37	12.00	12.37	12.30	316,167.00	188.36	
2/27/2004	12.43	11.93	12.40	12.00	440,544.00	187.31	
3/1/2004	12.38	11.72	12.00	12.33	305,493.00	191.69	
3/2/2004	13.50	12.20	12.37	13.15	796,182.00	190.50	
3/3/2004	13.20	12.32	13.20	12.50	451,622.00	189.82	
3/4/2004	13.51	12.32	12.44	13.34	853,405.00	192.58	
3/5/2004	13.75	12.42	12.94	13.15	679,202.00	192.04	
3/8/2004	13.84	13.07	13.44	13.10	298,937.00	187.87	
3/9/2004	13.16	12.67	13.05	12.78	225,918.00	184.29	
3/10/2004	12.97	12.15	12.71	12.58	306,859.00	180.86	
3/11/2004	12.93	12.10	12.50	12.27	302,229.00	179.23	
3/12/2004	12.79	12.18	12.27	12.60	270,136.00	184.40	
3/15/2004	12.79	12.00	12.55	12.45	333,183.00	178.24	
3/16/2004	12.69	12.22	12.24	12.35	285,662.00	178.44	
3/17/2004	12.69	12.32	12.32	12.53	197,182.00	182.90	
3/18/2004	12.65	11.30	12.45	11.30	1,014,316.00	180.67	

Date	ZIX					S6INFT	
	Px High	Px Low	Px Open	Px Last	Px Volume	Px Last	
3/19/2004	11.90	11.32	11.44	11.73	353,247.00	179.09	
3/22/2004	11.83	10.85	11.80	11.00	575,064.00	174.14	
3/23/2004	11.91	11.14	11.70	11.60	517,446.00	174.77	
3/24/2004	12.20	11.44	11.44	12.15	398,545.00	175.08	
3/25/2004	13.47	12.10	12.10	12.89	878,958.00	182.11	
3/26/2004	13.68	12.84	13.16	13.55	747,723.00	182.69	
3/29/2004	13.89	13.37	13.69	13.74	461,423.00	185.75	
3/30/2004	14.48	13.46	13.55	14.24	827,050.00	187.77	
3/31/2004	15.13	14.16	14.40	14.58	1,047,674.00	186.77	
4/1/2004	15.25	14.26	14.48	15.24	777,967.00	189.42	
4/2/2004	15.82	14.87	15.41	15.35	652,003.00	193.92	
4/5/2004	15.41	13.81	15.41	14.70	1,304,623.00	196.37	
4/6/2004	15.12	14.64	15.00	14.90	505,820.00	192.82	
4/7/2004	15.31	14.25	14.91	15.23	636,106.00	194.15	
4/8/2004	16.46	15.35	15.50	16.13	1,283,872.00	194.46	
4/12/2004	17.68	15.83	16.10	17.33	1,452,803.00	196.80	
4/13/2004	17.83	16.26	17.60	17.00	957,559.00	191.60	
4/14/2004	17.23	16.30	16.50	16.80	630,034.00	190.30	
4/15/2004	16.98	15.98	16.57	15.98	582,535.00	186.50	
4/16/2004	16.06	14.66	15.95	15.15	1,064,854.00	184.33	
4/19/2004	15.90	14.80	14.80	15.70	662,897.00	185.90	
4/20/2004	16.60	15.17	15.85	15.25	526,924.00	182.71	
4/21/2004	16.19	14.80	15.20	16.07	731,115.00	185.76	
4/22/2004	16.20	15.32	15.86	15.95	592,193.00	187.69	
4/23/2004	16.42	15.79	16.08	15.94	476,046.00	187.74	
4/26/2004	17.10	15.91	15.91	16.61	711,650.00	184.90	
4/27/2004	17.46	16.55	16.80	16.85	953,760.00	183.78	
4/28/2004	16.85	15.65	16.60	16.13	584,172.00	179.57	
4/29/2004	18.55	15.80	18.04	16.30	1,971,056.00	175.28	
4/30/2004	16.45	14.60	16.35	14.98	966,818.00	172.13	
5/3/2004	15.48	14.09	15.18	14.43	825,399.00	173.09	
5/4/2004	14.40	13.51	14.25	13.61	821,595.00	176.38	
5/5/2004	12.35	11.25	11.30	11.49	2,438,820.00	176.50	
5/6/2004	12.00	8.39	11.90	8.89	5,000,890.00	174.52	
5/7/2004	9.40	8.49	8.72	8.69	1,674,880.00	172.00	
5/10/2004	8.58	7.51	8.37	7.79	2,077,160.00	168.64	
5/11/2004	8.34	7.66	8.24	7.84	932,553.00	173.07	
5/12/2004	8.44	7.50	7.83	8.33	1,076,294.00	172.58	
5/13/2004	8.60	7.71	8.21	7.85	973,269.00	172.48	
5/14/2004	8.20	7.00	7.80	7.10	1,142,483.00	169.53	
5/17/2004	7.21	6.46	6.64	7.17	1,010,341.00	166.37	
5/18/2004	7.38	6.51	7.32	6.59	689,895.00	169.29	
5/19/2004	7.64	6.60	6.60	7.30	1,310,642.00	169.82	
5/20/2004	7.41	6.70	7.20	6.78	691,038.00	169.24	
5/21/2004	7.18	6.67	6.93	6.84	519,521.00	171.43	
5/24/2004	7.14	6.93	6.95	7.11	486,845.00	174.05	
5/25/2004	7.74	7.03	7.10	7.57	1,326,282.00	179.28	
5/26/2004	7.80	7.40	7.50	7.50	702,244.00	180.76	
5/27/2004	7.99	7.56	7.56	7.95	628,615.00	180.19	
5/28/2004	9.12	7.75	7.95	8.94	1,834,624.00	180.02	

Date	ZIX					S6INFT
	Px High	Px Low	Px Open	Px Last	Px Volume	Px Last
6/1/2004	8.94	8.24	8.94	8.49	994,836.00	180.76
6/2/2004	9.10	8.58	8.72	8.83	718,655.00	179.90
6/3/2004	8.90	8.34	8.90	8.43	700,792.00	175.19
6/4/2004	8.75	7.95	8.70	8.05	703,248.00	178.69
6/7/2004	8.40	8.10	8.15	8.29	307,018.00	183.02
6/8/2004	8.69	8.20	8.39	8.43	318,002.00	182.84
6/9/2004	8.58	8.15	8.35	8.20	333,563.00	179.28
6/10/2004	8.29	7.95	8.23	8.09	228,375.00	179.13
6/14/2004	8.20	7.91	8.05	7.91	275,657.00	174.85
6/15/2004	8.29	7.90	7.93	8.00	454,134.00	178.79
6/16/2004	8.75	8.26	8.31	8.50	745,111.00	179.33
6/17/2004	8.70	8.25	8.57	8.41	340,204.00	177.39
6/18/2004	8.50	8.17	8.39	8.50	246,929.00	177.70
6/21/2004	8.50	8.04	8.40	8.12	253,709.00	176.32
6/22/2004	8.43	8.15	8.20	8.39	297,415.00	179.16
6/23/2004	8.49	8.22	8.37	8.40	265,012.00	182.89
6/24/2004	8.39	8.20	8.24	8.37	244,092.00	182.04
6/25/2004	8.66	8.25	8.40	8.66	1,853,850.00	185.68
6/28/2004	8.50	7.66	8.44	8.03	809,662.00	184.08
6/29/2004	8.06	7.59	8.06	7.65	468,308.00	187.09
6/30/2004	7.95	7.55	7.64	7.89	363,974.00	189.22
7/1/2004	7.95	7.56	7.80	7.70	189,278.00	183.66
7/2/2004	7.74	7.55	7.74	7.59	144,201.00	182.31
7/6/2004	7.59	7.01	7.53	7.18	321,920.00	175.61
7/7/2004	7.20	6.65	7.06	6.80	512,809.00	173.76
7/8/2004	6.86	5.94	6.86	5.96	1,014,514.00	171.14
7/9/2004	6.28	5.84	6.03	6.03	355,923.00	173.01
7/12/2004	6.24	5.57	6.10	5.63	415,314.00	169.88
7/13/2004	6.15	5.62	5.62	6.00	565,675.00	169.85
7/14/2004	6.07	5.75	6.00	5.90	374,062.00	166.54
7/15/2004	5.90	5.60	5.90	5.67	289,454.00	167.45
7/16/2004	6.00	5.69	5.69	5.81	360,942.00	164.51
7/19/2004	5.95	5.08	5.92	5.43	577,814.00	163.42
7/20/2004	5.88	5.26	5.40	5.77	350,249.00	166.78
7/21/2004	6.55	5.91	5.98	6.03	1,271,095.00	160.60
7/22/2004	6.13	5.75	6.13	5.86	347,332.00	162.42
7/23/2004	5.95	5.25	5.78	5.44	378,261.00	158.99
7/26/2004	5.50	4.79	5.50	4.96	596,069.00	157.28
7/27/2004	5.50	5.01	5.12	5.43	329,562.00	161.78
7/28/2004	5.53	5.25	5.42	5.39	208,260.00	159.54
7/29/2004	5.80	5.42	5.54	5.77	321,219.00	163.99
7/30/2004	5.96	5.65	5.88	5.86	273,395.00	165.59
8/2/2004	5.86	5.45	5.86	5.72	251,761.00	165.07
8/3/2004	5.82	5.23	5.77	5.30	389,248.00	160.66
8/4/2004	5.60	5.10	5.36	5.20	414,720.00	161.62
8/5/2004	5.25	4.61	5.12	4.63	714,003.00	159.14
8/6/2004	4.69	4.01	4.30	4.46	755,763.00	153.14
8/9/2004	4.52	4.10	4.50	4.14	333,189.00	153.39
8/10/2004	4.30	3.98	4.01	4.19	425,962.00	157.00
8/11/2004	4.24	3.94	4.24	4.11	352,327.00	153.50

Date	ZIX					S6INFT
	Px High	Px Low	Px Open	Px Last	Px Volume	Px Last
8/12/2004	4.17	4.00	4.06	4.01	242,966.00	149.53
8/13/2004	4.10	3.81	4.00	3.88	330,331.00	149.95
8/16/2004	4.03	3.83	3.88	3.92	182,012.00	152.92
8/17/2004	4.15	3.96	4.05	4.04	184,979.00	154.98
8/18/2004	4.50	3.95	4.06	4.41	321,649.00	160.16
8/19/2004	4.60	4.31	4.50	4.38	300,770.00	159.55
8/20/2004	4.49	4.23	4.42	4.30	272,421.00	162.72
8/23/2004	4.42	4.23	4.33	4.38	142,539.00	162.53
8/24/2004	4.51	4.16	4.44	4.19	185,634.00	161.99
8/25/2004	4.88	4.20	4.36	4.80	478,364.00	163.92
8/26/2004	4.84	4.32	4.80	4.44	295,721.00	161.39
8/27/2004	4.50	4.34	4.48	4.47	118,607.00	163.29
8/30/2004	4.48	4.18	4.35	4.32	129,995.00	159.77
8/31/2004	4.44	4.10	4.24	4.15	393,531.00	159.41
9/1/2004	4.25	4.11	4.25	4.13	194,468.00	161.20
9/2/2004	4.49	4.22	4.31	4.30	266,808.00	163.11
9/3/2004	4.38	4.23	4.36	4.28	166,167.00	159.23
9/7/2004	4.47	4.11	4.12	4.47	312,895.00	161.01
9/8/2004	4.47	4.26	4.40	4.30	186,388.00	159.52
9/9/2004	4.47	4.20	4.42	4.31	243,768.00	163.22
9/10/2004	4.63	4.30	4.32	4.59	223,960.00	167.01
9/13/2004	5.39	4.50	4.59	4.89	1,095,893.00	170.00
9/14/2004	5.05	4.69	4.81	4.78	368,262.00	169.48
9/15/2004	4.79	4.52	4.79	4.61	180,721.00	166.62
9/16/2004	4.77	4.53	4.69	4.77	155,108.00	168.46
9/17/2004	4.98	4.64	4.81	4.80	154,603.00	168.96
9/20/2004	4.85	4.54	4.85	4.69	115,583.00	169.38
9/21/2004	4.87	4.62	4.80	4.81	124,224.00	172.12
9/22/2004	4.81	4.55	4.81	4.63	158,978.00	167.47
9/23/2004	4.68	4.40	4.53	4.48	259,144.00	168.15
9/24/2004	4.51	4.35	4.35	4.44	149,300.00	165.96
9/27/2004	4.73	4.35	4.73	4.42	178,491.00	163.41
9/28/2004	4.58	4.31	4.31	4.51	128,013.00	164.50
9/29/2004	4.70	4.47	4.61	4.60	151,589.00	168.41
9/30/2004	4.69	4.47	4.47	4.58	152,500.00	168.69
10/1/2004	4.80	4.56	4.59	4.71	207,422.00	174.47
10/4/2004	5.29	4.66	4.88	5.02	519,544.00	177.61
10/5/2004	5.21	4.92	5.10	5.01	478,812.00	177.99
10/6/2004	5.80	4.92	4.95	5.77	771,223.00	179.85
10/7/2004	6.09	5.45	5.80	5.46	803,188.00	177.08
10/8/2004	5.62	5.20	5.45	5.20	261,133.00	172.10
10/11/2004	5.61	5.20	5.32	5.55	161,773.00	173.50
10/12/2004	6.20	5.30	5.45	6.08	776,874.00	172.84
10/13/2004	6.25	5.70	6.18	5.90	429,598.00	172.85
10/14/2004	6.20	5.75	6.00	5.80	296,480.00	169.99
10/15/2004	5.95	5.63	5.77	5.71	265,606.00	170.21
10/18/2004	6.00	5.60	5.80	5.72	216,182.00	171.88
10/19/2004	5.90	5.45	5.61	5.49	261,015.00	172.18
10/20/2004	5.70	5.35	5.41	5.69	165,691.00	172.88
10/21/2004	5.86	5.62	5.63	5.74	207,970.00	177.23

Date	ZIX					S6INFT	
	Px High	Px Low	Px Open	Px Last	Px Volume	Px	Last
10/22/2004	5.84	5.41	5.61	5.48	237,673.00	172.25	
10/25/2004	5.51	5.27	5.37	5.33	199,587.00	172.84	
10/26/2004	5.59	5.26	5.26	5.40	170,307.00	173.01	
10/27/2004	5.70	5.44	5.65	5.69	311,004.00	178.84	
10/28/2004	5.75	5.33	5.75	5.45	256,744.00	178.35	
10/29/2004	5.58	5.25	5.51	5.40	138,183.00	177.75	
11/1/2004	5.55	5.26	5.26	5.39	126,328.00	179.19	
11/2/2004	5.50	4.79	5.50	4.88	675,223.00	178.67	
11/3/2004	5.09	4.70	5.08	4.77	422,669.00	180.36	
11/4/2004	4.67	4.40	4.65	4.55	1,015,097.00	181.69	
11/5/2004	4.34	3.84	3.91	4.16	1,366,380.00	183.74	
11/8/2004	4.34	4.05	4.13	4.18	493,085.00	183.30	
11/9/2004	4.46	4.19	4.44	4.23	276,937.00	183.78	
11/10/2004	4.54	4.26	4.54	4.46	320,597.00	183.05	
11/11/2004	4.70	4.40	4.45	4.66	490,460.00	185.47	
11/12/2004	5.31	4.62	4.62	5.26	1,312,850.00	187.33	
11/15/2004	5.35	4.99	5.25	5.25	605,615.00	189.55	
11/16/2004	5.25	4.90	5.11	4.97	380,218.00	187.78	
11/17/2004	5.15	4.66	4.91	4.81	353,211.00	190.62	
11/18/2004	4.95	4.59	4.66	4.64	291,912.00	190.31	
11/19/2004	4.66	4.41	4.66	4.48	272,745.00	186.65	
11/22/2004	4.62	4.30	4.62	4.47	255,296.00	188.50	
11/23/2004	4.60	4.40	4.60	4.52	205,311.00	188.47	
11/24/2004	4.58	4.40	4.48	4.45	226,644.00	190.06	
11/26/2004	4.54	4.38	4.38	4.40	101,637.00	189.46	
11/29/2004	4.75	4.41	4.56	4.70	459,261.00	191.17	
11/30/2004	4.77	4.47	4.65	4.58	374,642.00	189.84	
12/1/2004	4.81	4.58	4.60	4.73	268,916.00	194.60	
12/2/2004	4.84	4.64	4.64	4.76	296,046.00	195.43	
12/3/2004	5.29	4.81	4.90	5.09	1,084,756.00	196.73	
12/6/2004	5.39	5.02	5.03	5.30	509,422.00	196.59	
12/7/2004	5.52	5.01	5.30	5.01	862,338.00	191.45	
12/8/2004	5.16	4.89	5.07	5.01	366,161.00	191.56	
12/9/2004	5.07	4.87	5.06	4.97	275,544.00	189.32	
12/10/2004	5.07	4.62	4.87	4.75	443,581.00	189.18	
12/13/2004	5.10	4.69	5.02	4.75	598,280.00	190.33	
12/14/2004	5.04	4.68	4.80	4.72	505,762.00	192.18	
12/15/2004	4.90	4.61	4.75	4.61	356,666.00	193.52	
12/16/2004	4.75	4.44	4.60	4.51	511,845.00	191.42	
12/17/2004	4.61	4.31	4.56	4.61	618,828.00	191.33	
12/20/2004	4.65	4.36	4.54	4.49	364,984.00	188.43	
12/21/2004	4.75	4.38	4.47	4.49	852,054.00	191.07	
12/22/2004	4.65	4.41	4.42	4.61	461,208.00	192.29	
12/23/2004	4.71	4.50	4.61	4.68	337,442.00	192.97	
12/27/2004	4.97	4.69	4.69	4.88	544,759.00	191.43	
12/28/2004	5.38	4.92	4.94	5.19	1,074,459.00	194.53	
12/29/2004	5.25	5.10	5.15	5.11	508,006.00	194.69	
12/30/2004	5.25	5.01	5.12	5.05	445,408.00	194.59	
12/31/2004	5.30	5.04	5.08	5.15	700,295.00	194.45	
1/3/2005	5.34	4.81	5.34	4.99	536,262.00	190.26	

Date	ZIX					S6INFT
	Px High	Px Low	Px Open	Px Last	Px Volume	Px Last
1/4/2005	5.32	4.72	5.17	4.83	771,639.00	184.88
1/5/2005	4.96	4.52	4.96	4.75	578,034.00	181.83
1/6/2005	4.80	4.53	4.76	4.53	336,306.00	180.86
1/7/2005	4.70	4.42	4.70	4.52	365,386.00	179.21
1/10/2005	4.70	4.37	4.69	4.40	456,326.00	180.33
1/11/2005	4.46	4.11	4.41	4.19	581,616.00	178.18
1/12/2005	4.27	4.01	4.27	4.09	351,061.00	179.51
1/13/2005	4.20	3.98	4.20	4.13	302,741.00	178.13
1/14/2005	4.38	4.10	4.21	4.30	430,339.00	181.08
1/18/2005	4.39	4.18	4.36	4.39	331,365.00	183.45
1/19/2005	4.39	4.19	4.39	4.23	230,812.00	180.13
1/20/2005	4.22	4.10	4.18	4.17	209,050.00	178.49
1/21/2005	4.29	4.00	4.23	4.06	279,303.00	178.14
1/24/2005	4.13	3.77	4.13	3.86	459,905.00	176.02
1/25/2005	4.00	3.77	3.96	3.88	288,408.00	175.79
1/26/2005	3.96	3.80	3.95	3.85	180,090.00	180.27
1/27/2005	3.95	3.68	3.95	3.70	306,743.00	181.06
1/28/2005	3.74	3.35	3.70	3.66	547,178.00	180.28
1/31/2005	3.80	3.61	3.70	3.73	265,872.00	183.84
2/1/2005	3.92	3.66	3.66	3.84	211,401.00	185.07
2/2/2005	4.12	3.83	3.94	4.08	502,964.00	186.20
2/3/2005	4.10	3.96	4.06	4.01	239,893.00	185.52
2/4/2005	4.07	3.83	4.05	3.86	270,404.00	189.68
2/7/2005	4.05	3.72	3.86	4.03	228,193.00	189.87
2/8/2005	4.22	4.04	4.06	4.12	303,147.00	191.86
2/9/2005	3.73	3.42	3.50	3.52	847,843.00	186.24
2/10/2005	3.64	3.35	3.64	3.48	442,894.00	185.92
2/11/2005	3.53	3.35	3.45	3.37	261,461.00	188.85
2/14/2005	3.51	3.21	3.40	3.43	301,140.00	188.44
2/15/2005	3.54	3.31	3.41	3.33	252,439.00	189.53
2/16/2005	3.38	3.25	3.29	3.27	205,658.00	190.01
2/17/2005	3.31	3.00	3.26	3.07	634,266.00	186.66
2/18/2005	3.23	3.07	3.12	3.17	199,494.00	186.52
2/22/2005	3.17	3.01	3.12	3.02	224,985.00	183.21
2/23/2005	3.16	2.96	3.12	2.98	329,909.00	183.00
2/24/2005	3.00	2.67	2.96	2.68	654,322.00	185.27
2/25/2005	2.98	2.70	2.70	2.88	484,938.00	187.94
2/28/2005	3.05	2.77	2.98	2.97	275,518.00	187.75
3/1/2005	3.23	2.93	2.98	2.95	353,588.00	189.47
3/2/2005	3.09	2.90	2.92	3.02	231,695.00	188.53
3/3/2005	3.17	2.97	3.05	3.14	285,651.00	188.08
3/4/2005	3.49	3.06	3.06	3.45	428,390.00	189.05
3/7/2005	3.79	3.38	3.64	3.54	464,979.00	189.84
3/8/2005	3.85	3.55	3.61	3.82	553,846.00	187.68
3/9/2005	3.89	3.61	3.84	3.69	381,148.00	185.64
3/10/2005	3.80	3.48	3.70	3.54	270,503.00	184.78
3/11/2005	3.80	3.36	3.60	3.47	303,432.00	183.90
3/14/2005	3.63	2.96	3.45	3.33	426,469.00	184.74
3/15/2005	3.37	3.16	3.26	3.30	317,016.00	182.73
3/16/2005	3.39	3.23	3.27	3.33	127,796.00	181.65

Date	ZIX					S6INFT	
	Px High	Px Low	Px Open	Px Last	Px Volume	Px	Last
3/17/2005	3.56	3.28	3.35	3.56	273,109.00	182.23	
3/18/2005	3.80	3.49	3.49	3.60	416,047.00	181.40	
3/21/2005	3.78	3.56	3.60	3.75	182,510.00	181.25	
3/22/2005	4.05	3.71	3.73	3.81	487,358.00	180.75	
3/23/2005	3.84	3.65	3.79	3.77	179,571.00	178.99	
3/24/2005	4.04	3.70	3.85	3.87	451,009.00	179.93	
3/28/2005	4.01	3.89	3.90	3.95	362,534.00	179.07	
3/29/2005	4.15	3.81	3.95	3.94	212,407.00	175.81	
3/30/2005	4.05	3.86	3.97	3.95	159,825.00	180.23	
3/31/2005	3.94	3.64	3.93	3.74	246,869.00	179.48	
4/1/2005	3.72	3.20	3.72	3.33	447,522.00	178.46	
4/4/2005	3.32	3.11	3.32	3.19	223,700.00	179.04	
4/5/2005	3.34	3.06	3.25	3.08	226,023.00	177.87	
4/6/2005	3.46	3.06	3.06	3.41	437,687.00	177.82	
4/7/2005	3.72	3.31	3.41	3.69	283,042.00	179.86	
4/8/2005	3.92	3.69	3.69	3.74	225,364.00	177.89	
4/11/2005	3.79	3.55	3.76	3.56	117,110.00	176.54	
4/12/2005	3.80	3.46	3.53	3.77	137,061.00	176.68	
4/13/2005	3.87	3.65	3.78	3.76	156,608.00	172.85	
4/14/2005	3.83	3.36	3.80	3.42	243,095.00	169.38	
4/15/2005	3.44	3.16	3.42	3.20	346,514.00	165.36	
4/18/2005	3.34	3.20	3.26	3.34	105,975.00	166.60	
4/19/2005	3.35	3.13	3.35	3.23	219,633.00	169.55	
4/20/2005	3.23	3.00	3.16	3.14	364,772.00	167.20	
4/21/2005	3.18	3.05	3.16	3.14	225,295.00	172.68	
4/22/2005	3.13	2.92	3.10	2.92	240,436.00	169.19	
4/25/2005	3.12	2.85	2.92	3.05	246,693.00	170.26	
4/26/2005	3.06	2.96	3.00	3.05	192,518.00	168.34	
4/27/2005	3.05	2.99	3.01	2.99	136,706.00	168.93	
4/28/2005	3.05	2.91	3.00	2.91	202,550.00	164.73	
4/29/2005	2.93	2.63	2.91	2.75	519,563.00	166.75	
5/2/2005	2.80	2.60	2.71	2.62	278,171.00	168.53	
5/3/2005	2.79	2.50	2.65	2.71	286,926.00	168.24	
5/4/2005	2.75	2.50	2.75	2.60	249,085.00	170.58	

# EXHIBIT D

## Exhibit 'D' Reported Institutional Holdings of Zix Corporation

Quarter End Date	Total 13F Institution Holdings	Total % Held	Total # of 13F Institutions	Price \$	Shares Outstanding
31-Mar-05	7,576,473	23.55%	68	3.74	32,169,000
31-Dec-04	7,192,312	22.36%	69	5.15	32,169,000
30-Sep-04	7,796,361	24.42%	64	4.58	31,927,000
30-Jun-04	8,556,308	26.97%	72	7.89	31,728,000
31-Mar-04	6,512,224	21.20%	66	14.58	30,717,000
31-Dec-03	4,511,188	16.14%	50	8.69	27,945,000
30-Sep-03	2,409,339	10.59%	46	8.10	22,745,000
30-Jun-03	2,539,761	11.99%	46	3.77	21,179,000
31-Mar-03	2,370,949	11.52%	46	4.30	20,583,000
31-Dec-02	2,270,097	12.21%	46	4.41	18,593,000
30-Sep-02	2,234,167	12.31%	44	3.85	18,143,000

# EXHIBIT 2

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

<b>MATT BRODY, on behalf of himself and all others similarly situated,</b>	§	
	§	<b>Civil Action No. 3:04-CV-1931-K</b>
	§	<b>ECF</b>
<b>Plaintiffs,</b>	§	
	§	
<b>vs.</b>	§	
	§	
<b>ZIX CORPORATION, RONALD A. WOESSNER, JOHN A. RYAN, DANIEL S. NUTKIS, STEVE M. YORK and DENNIS F. HEATHCOTE,</b>	§	
	§	
	§	
<b>Defendants.</b>	§	
	§	

**DECLARATION OF ROGER F. CLAXTON IN SUPPORT OF  
PLAINTIFF'S MOTION FOR CLASS CERTIFICATION**

I, Roger F. Claxton, declare under penalty of perjury this 13<sup>th</sup> day of April, 2006:

1. I am a member and a lawyer as the law firm if Claxton & Hill, PLLC. I submit this declaration in support of the motion of Plaintiff's Motion for Class Certification.
2. Attached hereto as Exhibit A is a true and correct copy of the firm biography for Murray, Frank & Sailer, LLP.
3. Attached hereto as Exhibit B is a true and correct copy of the firm biography for Schiffrian & Barroway, LLP.
4. Attached hereto as Exhibit C is a true and correct copy of the firm biography for Claxton & Hill, PLLC.

I hereby declare under penalty of perjury that the foregoing is true and correct.

s/Roger F. Claxton  
ROGER F. CLAXTON

**CERTIFICATE OF SERVICE**

I hereby certify that on this 13th day of April, 2007, I electronically filed the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. The electronic case filing system sent a "Notice of Electronic Filing" to the following attorneys of record who have consented in writing to accept this notice as service of this document by electronic means:

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I further certify that a true and correct copy of the foregoing document was sent by first class mail to counsel listed below that have not consented in writing to accept this notice by electronic means:

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s/Roger F. Claxton  
Roger F. Claxton

# EXHIBIT A

# Murray, Frank & Sailer LLP

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**M**URRAY, FRANK & SAILER LLP concentrates its practice in class action litigation, particularly in cases involving federal securities law, federal antitrust law, ERISA, and state consumer protection law.

## **SECURITIES FRAUD**

Murray, Frank & Sailer has been lead, co-lead counsel, a member of the executive committee, or represented a class representative in successful securities actions throughout the United States, including the following:

*In re Royal Ahold Sec. Litig.* (D. Md.) (recovery of \$1.1 billion); *In re Williams Sec. Litig.* (N.D. Okla.) (recently settled for \$311 million); *In re Merrill Lynch Inc. Research Reports Sec. Litig.* (S.D.N.Y.) (recently settled for \$125 million); *In re JWP Inc. Sec. Litig.* (S.D.N.Y.) (\$40 million); *In re Turkcell Iletisim Hizmetleri A.S. Sec. Litig.* (S.D.N.Y.) (\$19.2 million); *In re PictureTel Inc. Sec. Litig.* (D. Mass.) (\$14 million); *In re Marion Merrell Dow Inc. Sec. Litig.* (W.D. Mo.) (\$14 million); *LaVallie v. Owens-Corning Fiberglas Corp.* (N.D. Ohio) (\$10 million); *In re USX Sec. Litig.* (W.D. Pa.) (\$9 million); *Miller v. Bonmati* (Del. Ch.) (\$9.9 million); *Feiner v. SS&C Tech., Inc.* (D. Conn.) (\$8.8 million).

The firm is currently lead or co-lead counsel or a member of an executive committee in many cases, including the following:

*In re General Motors Corp. Sec. Litig.* (E.D. Mich.); *In re Williams Sec. Litig.* (N.D. Okla.); *In re Harley-Davidson, Inc. Sec. Litig.* (E.D. Wis.); *In re Yukos Oil Sec. Litig.* (S.D.N.Y.); *Amalgamated Bank v. The Coca-Cola Company* (N.D. Ga.); *Katz v. Praecis Pharmaceuticals Inc.* (D. Mass.); *In re Citadel Software Inc. Sec. Litig.* (N.D. Tex.); *In re EIS Int'l Inc. Sec. Litig.* (D. Conn.); *In re Infineon Technologies AG Sec. Litig.* (N.D. Cal.); *In re Andrx Sec. Litig.* (S.D. Fla.); *In re Crompton Sec. Litig.* (D. Conn.); *In re Ramp Corp. Sec. Litig.* (S.D.N.Y.); *In re Credit Suisse First Boston Corp. (Lantronix, Inc.) Analyst Sec. Litig.* (S.D.N.Y.); *Brody v. Zix Corp.* (N.D. Tex.).

Murray, Frank & Sailer also represents institutional plaintiffs in individual actions against AOL Time Warner and Royal Dutch Petroleum for violations of the United States securities laws.

## ANTITRUST

Murray, Frank & Sailer has also represented plaintiffs in federal and state class actions arising out of antitrust law violations, including the *Infant Formula, Brand Name Pharmaceutical, Nasdaq, VISA/Master-Card, Playmobil, Disposable Contact Lens, and Time Warner* cases.

Murray, Frank & Sailer is currently counsel in many cases involving Sherman Act violations including: *In re American Express Antitrust Litig.* (S.D.N.Y.); *In re Linens Antitrust Litig.* (S.D.N.Y.); *Schwartz v. The Thompson Corp.* (S.D.N.Y.); *In re Hydrogen Peroxide Antitrust Litig.* (E.D. Pa.); *In re Air Cargo Carrier Antitrust Litig.* (E.D.N.Y.); *Slattery v. Apple Computer Inc.* (N.D. Cal.), *Payment Card Interchange Fee and Merchant Discount Antitrust Litig.* (E.D.N.Y.), and *McDonough v. Toys "R" Us – Delaware, Inc., d/b/a Babies "R" Us, and Babies "R" Us, Inc.* (E.D. Pa.).

In the *Playmobil* Case, Murray, Frank & Sailer was co-lead counsel, representing a class of purchasers of Playmobil products. Murray, Frank & Sailer was successful in obtaining certification of a plaintiff class in an oft-cited opinion and settling the case on favorable terms to the class. The Court, at the fairness hearing, “compliment[ed] both counsel in the fine job done negotiating with each other and also the legal work that has been submitted to

the Court.” In the *Disposable Contact Lens* case, Murray, Frank & Sailer represented a class of purchasers of disposable contact lenses in California, and eventually obtained reversal in the California appellate courts of a denial of class certification. In the *Time Warner* case, Murray, Frank & Sailer was co-lead counsel, representing a class of subscribers of Time Warner’s high speed internet service. Murray, Frank & Sailer successfully overcame an arbitration clause and obtained favorable settlement for the class.

## CONSUMER PROTECTION

In the consumer protection area, Murray, Frank & Sailer as lead counsel has represented consumers in class actions involving, *inter alia*, misleading uniform public statements concerning wrongful billing practices and poor service by wireless communications providers; wrongful billing practices by credit card companies, banks and retailers; mislabeling of imported olive oil; mislabeling of domestic pasta; brokerage fees imposed with no or insufficient notice; Medicaid overcharges; and faulty automobile seat heaters.

Among its cases of note, Murray, Frank & Sailer recovered benefits worth \$40 million in *Naevus Int'l v. AT&T Corp.*, a consumer class action brought in New York State Supreme Court on behalf of consumers who subscribed to AT&T’s Digital One Rate wireless

service. In 2005, the firm settled with Volkswagen of America, forcing a recall of all 2003 and 2004 Volkswagen Jetta for faulty automobile seat heaters.

## **ERISA**

Murray, Frank & Sailer is prosecuting several actions in federal court against employers on behalf of employees for employee investment fund mismanagement; knowingly offering, marketing, and selling improper investments to employees for their retirement accounts; and knowingly misrepresenting the prospects of the employees' company in order to sell company stock to them. The firm is currently co-lead counsel in the *Winn-Dixie Stores, Inc. ERISA Litig.* (S.D. Fla.) and class counsel in *In re AON ERISA Litig.* (N.D. Ill.); *In re Cardinal Health, Inc. ERISA Litig.* (S.D. Ohio).

## **FIRM HIGHLIGHTS**

Murray, Frank & Sailer filed over 120 securities class actions in 2004 and over 100 cases in 2005. In Verteris's "Securities Class Action: Plaintiffs' Counsel Watch," Q2, 2005 Report, MFS was ranked fourth in "Plaintiffs' Counsel Litigation Activity Index" and "Plaintiffs' Counsel by Total Unique Actions," and fifth in "Plaintiffs' Counsel Based on Lead Plaintiff Appointments." MFS is also a member of the Executive Committee of the

National Association of Shareholder and Consumer Attorneys (NASCAT).

## **MAJOR ONGOING CASES**

*In re General Motors Corp. Securities Litigation* (E.D. Mich.) – MFS is co-lead counsel representing a class of investors in General Motors securities;

*Amalgamated Bank v. The Coca-Cola Company* (N.D. Ga.) – MFS is co-lead counsel representing a class of investors of Coca-Cola securities;

*In re Harley-Davidson Securities Litigation* (E.D. Wis.) – MFS is co-lead counsel representing a class of investors in Harley-Davidson Company securities;

## **JUDICIAL COMMENDATIONS**

*In re General Motors Corp. Sec. Litig.*, 05-CV-8088 (S.D.N.Y. 2006), in which the Court, before appointing the firm lead counsel, stated "we know Mr. Frank very well, so they are both esteemed and experienced attorneys in these matters, and I don't think anybody could go wrong with either one of them to be honest with you."

*Miller v. Bonmati*, Del. Ch., C.A. No. 15849, Lamb, V.C. (March 18, 1999), in which the Court stated "I am quite pleased by the work that was done by the plaintiffs' counsel. They seem to have done a very professional job of

dealing with a difficult situation and have obtained, from everything I can ascertain from the record in front of me, quite a beneficial settlement that gives an opportunity for this situation to work itself out.”

*Adair v. Bristol Tech. Systems, Inc.*, 179 F.R.D. 126 (S.D.N.Y. 1998) in which Judge Sweet stated plaintiffs’ counsel were “skilled advocates and negotiators.”

*In re EIS International, Inc. Securities Litigation*, 97-cv-813 (D. Conn.), in which the Court stated: “I wanted to compliment counsel . . . We have been together quite a long time in the case and I appreciate all the fine legal work that you’ve done.”

*Adair v. Microfield Graphics, Inc.* (D. Or. 1998), in a case that recovered 47% of estimated damages, the Court noted “Plaintiff’s counsel have exhibited a high quality of work in prosecuting this action.”

*Steffen v. Playmobil USA, Inc.*, Civ No. 95-2896 (E.D.N.Y.), in which the Court “compliment[ed] both counsel in the fine job done negotiating with each other and also the legal work that has been submitted to the Court.”

*Kinney v. Metro Global Media, Inc.*, 170 F. Supp. 2d 173 (D.R.I. 2001), Judge Lisi expressed an “appreciation for how difficult this case was for all

sides, for how hotly contested many of the issues in this case were from the get-go and how reaching a settlement, given all of those considerations, was particularly difficult; so I commend all of you for persevering in the efforts that you made toward reaching a settlement . . . [and] for achieving what I find to be a fair, adequate and reasonable result[.]”

#### **PRECEDENT SETTING DECISIONS**

In *Cambridge Biotech Corp. v. Deloitte and Touche LLP*, 6 Mass. L. Rptr. 367 (Mass. Super. Jan 28, 1997), on a case of first impression, the Superior Court of Massachusetts applied the doctrine of continuous representation for statute of limitations purposes to accountants for the first time in Massachusetts.

In *Kinney v. Metro Global Media, Inc.*, 170 F. Supp. 2d 173 (D.R.I. 2001), MFS successfully argued on a case of first impression in the District of Rhode Island for the pleading standard for claims against an auditor under the Private Securities Litigation Reform Act of 1995.

In *Feiner v. SS&C Tech., Inc.*, 11 F. Supp. 2d 204 (D. Conn. 1998), MFS prevailed on an issue of first impression concerning the liability of a qualified independent underwriter for an initial public offering.

In *Sclafani v. Barilla America, Inc.*, 2004-03542 (N.Y. App. Div.), MFS successfully argued before the Supreme Court's Appellate Division that General Business Law § 349(d) did not establish a complete defense to Plaintiff's allegation that Barilla's packaging misled consumers into believing the company's pasta was made in Italy, obtaining a reversal of a trial court dismissal.

In *Adair v. Bristol Tech. Sys., Inc.*, 179 F.R.D. 126 (S.D.N.Y. 1998), MFS prevailed on an issue of first impression in the Southern District of New York, successfully arguing that standing under the Securities Act of 1933 was not limited to buyers who purchased directly on an initial public offering. The opinion was subsequently cited in decisions and secondary sources over 70 times.

## THE PARTNERS

**BRIAN MURRAY**, a partner, was admitted to the bars of Connecticut in 1990, the State of New York and the United States District Courts for the Southern and Eastern Districts of New York in 1991, the Second Circuit in 1997, the First and Fifth Circuits in 2000, and the Ninth Circuit in 2002. He received B.A. and M.A. degrees from the University of Notre Dame in 1983 and 1986, respectively. He received a J.D. degree, *cum laude*, from St. John's University School of Law in 1990. At St. John's, he was the Articles Editor of the ST. JOHN'S LAW REVIEW. Mr. Murray co-wrote *International Strategic Partnerships to Prosecute Securities Class Actions, Investment and Pensions Europe* (May 2006); *The Proportionate Trading Model: Real Science or Junk Science?*, 52 CLEVELAND ST. L. REV. 391 (2004-05); *The Accident of Efficiency: Foreign Exchanges, American Depository Receipts, and Space Arbitrage*, 51 BUFFALO L. REV. 383 (2003); *You Shouldn't Be Required To Plead More Than You Have To Prove*, 53 BAYLOR L. REV. 783 (2001); *He Lies, You Die: Criminal Trials, Truth, Perjury, and Fairness*, 27 NEW ENGLAND J. ON CIVIL AND CRIMINAL CONFINEMENT 1 (2001); *Subject Matter Jurisdiction Under the Federal Securities Laws: The State of Affairs After Itoba*, 20 MARYLAND J. OF INT'L L. AND TRADE 235 (1996); *Determining Excessive Trading in Option Accounts: A Synthetic Valuation Approach*, 23 U. DAYTON L. REV. 316 (1997); *Loss Causation Pleading Standard*, NEW YORK LAW JOURNAL (Feb. 25, 2005); *The PSLRA 'Automatic Stay' of Discovery*, NEW YORK LAW JOURNAL (March 3, 2003); and *Inherent Risk In Securities Cases In The Second Circuit*, NEW YORK LAW JOURNAL (Aug. 26, 2004). He also authored *Lifting the PSLRA "Automatic Stay" of Discovery*, 80 N. DAK. L. REV. 405 (2004); *Aftermarket Purchaser Standing Under § 11 of the Securities Act of 1933*, 73 ST. JOHN'S L. REV. 633 (1999); *Recent Rulings Allow Section 11 Suits By Aftermarket Securities Purchasers*, NEW YORK LAW JOURNAL (Sept. 24, 1998); and Comment, *Weissmann v. Freeman: The Second Circuit Errs in its Analysis of Derivative Copyrights by Joint Authors*, 63 ST. JOHN'S L. REV. 771 (1989).

Mr. Murray was on the trial team that prosecuted a securities fraud case under Section 10(b) of the Securities Exchange Act of 1934 against Microdyne Corporation in the Eastern District of Virginia and he was also on the trial team that presented a claim under Section 14 of the Securities Exchange Act of 1934 against Artek Systems Corporation and Dynatach Group which settled midway through the trial.

Mr. Murray's major cases include *In re Eagle Bldg. Tech. Sec. Litig.*, 221 F.R.D. 582 (S.D. Fla. 2004), 319 F. Supp. 2d 1318 (S.D. Fla. 2004) (complaint against auditor sustained due to magnitude and nature of fraud; no allegations of a "tip-off" were necessary); *In re Turkcell Iletisim A.S. Sec. Litig.*, 209 F.R.D. 353 (S.D.N.Y. 2002) (defining standards by which investment advisors have standing to sue); *In re Turkcell Iletisim A.S. Sec. Litig.*, 202 F. Supp. 2d 8 (S.D.N.Y. 2001) (liability found for false statements in prospectus concerning churn rates); *Feiner v. SS&C Tech., Inc.*, 11 F. Supp. 2d 204 (D. Conn. 1998) (qualified independent underwriters held liable for pricing of offering); *Malone v. Microdyne Corp.*, 26 F.3d 471 (4<sup>th</sup> Cir. 1994) (reversal of directed verdict for defendants); and *Adair v. Bristol Tech. Systems, Inc.*, 179 F.R.D. 126 (S.D.N.Y. 1998) (aftermarket purchasers have standing under section 11 of the Securities Act of 1933). Mr. Murray also prevailed on an issue of first impression in the Superior Court of Massachusetts, in *Cambridge Biotech Corp. v. Deloitte and Touche LLP*, in which the court applied the doctrine of continuous representation for statute of limitations purposes to accountants for the first time in Massachusetts. 6 Mass. L. Rptr. 367 (Mass. Super. Jan. 28, 1997). In addition, in *Adair v. Microfield Graphics, Inc.* (D. Or.), Mr. Murray settled the case for 47% of estimated damages.

Mr. Murray served as a Trustee of the Incorporated Village of Garden City (2000-2002); Commissioner of Recreation for Garden City (2001-2002); Commissioner of Police for Garden City (2000-2001); Member, Sports Law Committee, Association of the Bar for the City of New York, 1994-1997; and is currently a Member, Litigation Committee, Association of the Bar for the City of New York, 2003-present; and Member, New York State Bar Association Committee on Federal Constitution and Legislation, 2005-present.

Mr. Murray has been a panelist at CLEs sponsored by the Federal Bar Council and the Institute for Law and Economic Policy, at the German-American Lawyers Association Annual Meeting in Frankfurt, Germany, and at "Class Action' Etutela Internazionale Degli Investimenti Finanziari" in Vicenzia, Italy.

**MARVIN L. FRANK**, the managing partner, was admitted to bars of New York, New Jersey, and the United States District Court for the District of New Jersey in 1991, the District of Nebraska in 2005, the United States District Courts for the Southern and Eastern Districts of New York in 1992, the Second Circuit in 1998, the Seventh Circuit in 1999, the United States Supreme Court in 2004, the Eastern District of Michigan in 2006, and the Northern District of

Texas in 2006. Mr. Frank graduated with a B.A. degree from The City College of New York in 1969, a M.B.A. degree from Bernard M. Baruch College in 1974, and received his J.D. degree, *magna cum laude*, from New York Law School in 1991. At New York Law School, he received the Kaplun Foundation Award For Academic Excellence.

Mr. Frank's major cases include *In re General Motors Corp. Sec. Litig.*, 05-CV-8088 (S.D.N.Y.), in which the Court, before appointing the firm lead counsel, stated "we know Mr. Frank very well, so they are both esteemed and experienced attorneys in these matters, and I don't think anybody could go wrong with either one of them to be honest with you"; *Sclafani v. Barilla America, Inc.*, 2004-03542 (N.Y. App. Div.), in which Mr. Frank successfully argued before the Supreme Court's Appellate Division that General Business Law § 349(d) did not establish a complete defense to Plaintiff's allegation that Barilla's packaging misled consumers into believing the company's pasta was made in Italy, obtaining a reversal of a trial court dismissal; *Miller v. Bonmati*, Del. Ch., C.A. No. 15849, Lamb, V.C. (Mar. 18, 1999), in which the Court stated "I am quite pleased by the work that was done by the plaintiffs' counsel. They seem to have done a very professional job of dealing with a difficult situation and have obtained, from everything I can ascertain from the record in front of me, quite a beneficial settlement that gives an opportunity for this situation to work itself out.>"; *In re JWP Inc. Sec. Litig.* (S.D.N.Y.) (\$40 million); *In re Marion Merrell Dow Inc. Sec. Litig.* (W.D. Mo.) (\$14 million); *In re PictureTel Inc. Sec. Litig.* (D. Mass) (\$14 million); *In re ContiFinancial Sec. Litig.* (S.D.N.Y.) (\$5.5 million); *In re Quintiles Transnational Sec. Litig.* (M.D.N.C.) (\$3 million).

Mr. Frank is the firm's representative on the Executive Committee of the National Association of Shareholder and Consumer Attorneys (NASCAT). He is Vice President of the Institute for Law and Economic Policy (ILEP), a public policy research and educational foundation – a think tank – established to preserve, study, and enhance access to the civil justice system by shareholders and consumers and Vice President of the Emerald Green Property Owners Association in Rock Hill, New York.

Mr. Frank co-wrote *Staying Derivative Actions Pursuant to PSLRA and SLUSA*, NEW YORK LAW JOURNAL (Oct. 21, 2005) and the SECURITIES REFORM ACT LITIGATION REPORTER, Vol. 20, No. 3 (Dec. 2005). Mr. Frank has been a panelist at the American Banker's Association Operations Conference for Securities, Brokerage & Trust in Memphis, Tennessee and a

panelist at the Magenta One Conference for Securities and Trust on the Isle of Jersey, United Kingdom.

**JACQUELINE SAILER**, a partner, was admitted to the bars of Delaware in 1990, the United States District Court for the District of Delaware in 1991, the State of New York and the United States District Courts for the Southern and Eastern Districts of New York in 1996, the United States Court of Appeals for the Sixth Circuit and the United States District Court for the District of Colorado in 1997, the United States Court of Appeals for the Second Circuit in 1998, and the United States Supreme Court in 2005. She graduated with honors from Smith College with a B.A. degree in 1985. She received a J.D. degree from St. John's University School of Law in 1990. Ms. Sailer is fluent in French. She is a member of the Federal Bar Council; member, National Association of Consumer Advocates; and member, Association of the Bar for the City of New York, including the Sex and Law Committee, 1996-1999. Ms. Sailer is the co-author of *Loss Causation Pleading Standards*, NEW YORK LAW JOURNAL (Feb. 25, 2005).

Ms. Sailer was responsible for the recovery of \$40 million worth of benefits for a plaintiff class of wireless consumers in a consumer class action, *Naevus Int'l, Inc. v. AT&T Corp.* Her major reported cases as lead counsel include *Naevus Intl., Inc. v. AT&T Corp.*, 713 N.Y.S.2d 642 (Sup. Ct. New York Co. 2000) (establishing limits on the reach of the Federal Communications Act on state consumer fraud claims), in which she successfully argued against a motion to dismiss on behalf of a class of current and former subscribers to AT&T's wireless service; and a federal securities class action, *Kinney v. Metro Global Media, Inc.*, 170 F. Supp. 2d 173 (D.R.I. 2001) (addressing the pleading standard for fraud under the Private Securities Litigation Reform Act of 1995 for claims against an auditor, an issue of first impression in the District of Rhode Island), in which she successfully argued and opposed an auditor's motion to dismiss claims under Section 10(b) of the Securities Exchange Act of 1934; *Baffa v. Donaldson, Lufkin & Jenrette Securities Corp.*, 999 F. Supp. 725 (S.D.N.Y. 1998) (denying underwriters' motion to dismiss securities fraud claims). At the fairness hearing in *Metro Global*, Judge Lisi expressed an "appreciation for how difficult this case was for all sides, for how hotly contested many of the issues in this case were from the get-go and how reaching a settlement, given all of those considerations, was particularly difficult; so I commend all of you for persevering in the efforts that you made toward reaching a settlement . . . [and] for achieving what I find to be a fair, adequate and reasonable result[.]"

Ms. Sailer's trial experience includes serving as second chair in the prosecution of a breach of contract case that was tried successfully before a jury in the District of Delaware.

Currently Ms. Sailer's case responsibilities include serving as lead counsel and co-chairperson of the executive committee in securities fraud cases brought against Merrill Lynch & Co. based on fraudulent analyst reports, pending in the Southern District of New York.

**LAWRENCE D. McCABE**, a partner, was admitted to the bars of the State of New York and the United States District Court for the Southern District of New York in 1995, and the United States District Court for the Eastern District of New York in 2001. Mr. McCabe received a B.A. degree, *cum laude*, from Iona College in 1984. He received his J.D. degree, *cum laude*, from Fordham University School of Law in 1994. At Fordham, he was a Notes & Articles editor of the Law Review. Upon graduation from Fordham, he was admitted into the Order of the Coif.

Mr. McCabe focuses his practice primarily on class actions on behalf of defrauded investors, derivative actions on behalf of corporate shareholders, as well as complex commercial litigation. His extensive securities fraud litigation experience includes significant settlements for class members in *In re Computer Associates 2002 Class Action Sec. Litig.* (common stock valued at approximately \$165 million); *Scheiner v. i2 Tech., Inc.* (N.D. Tex.) (\$87.75 million); *In Re Lason, Inc. Sec. Litig.* (E.D. Mich.) (\$12.68 million); *In re Berkshire Realty Co. Shareholder Litig.* (Del. Ch.) (\$6.25 million); *Dorchester Investors v. Peak TrENDS Trust* (S.D.N.Y.) (\$4 million).

Upon graduation from college, Mr. McCabe worked as a securities trader, specializing in NASDAQ securities. After law school, Mr. McCabe practiced commercial litigation with Skadden, Arps, Slate, Meagher & Flom LLP. Mr. McCabe has been an active member of the plaintiffs bar since 2002 when he became associated with Milberg Weiss Hynes & Lerach LLP and later with Lerach Coughlin Stoia Geller Rudman & Robbins LLP.

## THE ASSOCIATES

**GREGORY B. LINKH**, an associate, was admitted to the bars of the State of New York and the United States District Court for the Southern and Eastern Districts of New York in 2000. He graduated from the State University of New York at Binghamton with a B.A. degree in 1996 and received a J.D. degree from the University of Michigan in 1999. Mr. Linkh is the co-author of *Inherent Risk In Securities Cases In The Second Circuit*, NEW YORK LAW JOURNAL (Aug. 26, 2004); *Staying Derivative Action Pursuant to PSLRA and SLUSA*, NEW YORK LAW JOURNAL (Oct. 21, 2005) and the SECURITIES REFORM ACT LITIGATION REPORTER, Vol. 20, No. 3 (Dec. 2005). Prior to joining Murray, Frank & Sailer, Mr. Linkh was associated with the law firms Dewey Ballantine LLP and Pomerantz Haudek Block Grossman & Gross LLP.

**THOMAS J. KENNEDY**, an associate, was admitted to the bars of New York and the United States District Courts for the Southern and Eastern Districts of New York in 1996. He received a J.D. degree in 1995 from St. John's University School of Law and a B.S. in Accounting from Miami University in 1992. Mr. Kennedy passed the CPA exam in 1998.

**BRIDGET V. HAMILL**, an associate, was admitted to the bars of the State of New Jersey in 2001 and the State of New York in 2005. She received a J.D. degree in 2000 from Rutgers School of Law and a B.A. from Douglass College of Rutgers University, where she was one of twelve members of her graduating class in the Douglass Scholars Academic Scholarship Program, in 1985. Her primary area of practice is securities class action. She is currently working on *In re Williams Sec. Litig.* (N.D. Okla.). Prior to joining Murray, Frank & Sailer, Ms. Hamill was law clerk to U.S. Magistrate Judge Mark Falk in the District of New Jersey. While attending law school, she was an employee stock options/stock purchase plan administrator in New York City. Prior to entering law school, Ms. Hamill was a health care information systems manager.

**BRADLEY P. DYER**, an associate, was admitted to the bars of the State of New York and the United States District Courts for the Southern and Eastern Districts of New York in 2003. He received a B.A. degree in Government & Law in 1999, from Lafayette College, and received a J.D. degree from Fordham University School of Law in 2002. His primary area of practice is securities class action litigation.

**BRIAN BROOKS**, an associate, was admitted to the bar of the State of Louisiana in 2003. Mr. Brooks received a B.A. from Northwestern State University in 1998 and a J.D. from Washington and Lee University in 2002. Prior to joining Murray, Frank & Sailer he was associated with the firm of Percy, Smith & Foote, where his primary area of practice was antitrust law.

**OLGA FORT**, an associate, was admitted to the bar of the State of New York in 2005. She graduated from Fordham University School of Law with a Master of Laws degree in Banking, Corporate and Finance Law in 2004. She received a J.D. degree in 1998 from the Moscow Institute of Economics and Law and a B.A. degree in Commerce and Marketing from Moscow University for the Humanities in 1995. She attended the Russian State Institute of Intellectual Property from 1998 to 2000. She authored "International Exhaustion of Intellectual Property Rights," PATENT AFFAIRS, #8, Moscow, 2000 and Exhaustion of Intellectual Property Rights, RUSSIAN STATE INSTITUTE OF INTELLECTUAL PROPERTY JOURNAL, Moscow, 1999 (Thesis for and Presentation at the Conference on Legal Protection, Commercial Use and Problems associated with Intellectual Property organized by the Russian State Agency on Patents and Trademarks, December 16-17, 1999). While attending law school, Mrs. Fort clerked for a Judge in Moscow Military Court. She worked as a legal counsel for the Savings Bank of the Russian Federation where she specialized in banking, finance, and corporate law. Prior to joining Murray, Frank & Sailer, Mrs. Fort was associated with the Law Offices of Peter E. Finning, where her primary area of practice was insurance defense litigation. She is a member of the American Bar Association and New York State Bar Association.

**SCOTT H. LEVY**, an associate, was admitted to the New York bar in 2006. He received a B.A. degree in History from the University of California at Berkeley in 2001 and a J.D. degree from the Fordham University School of Law in 2005. At Fordham, he was a staff member of the FORDHAM URBAN LAW JOURNAL.

### **OF COUNSEL**

**JAMES M. MARRIN, JR.** was admitted to the bars of the State of New York in 2001 and the United States District Courts for the Southern and Eastern Districts of New York in 2005. He attended New York Law School on an academic scholarship and graduated *cum laude* in 2000. He graduated from Georgetown University with a B.A. in government in 1993. Mr. Marrin served

as an Assistant District Attorney for the Kings County District Attorney from 2000 to 2003, prosecuting felonies and misdemeanors. From 2003 to 2005, he was in private practice, specializing in trusts and estates, real estate, and criminal defense.

**ANGELA M. FINLAY** was admitted to the Washington State bar in 2000. She received a J.D. from New York Law School in 1999 and a B.A. from Loyola College in Maryland in 1991. She holds a Certificate in Advanced Accounting from the University of Washington Business School.

**CHARLES CLAY CARROLL** was admitted to the bars of the State of Alabama and the United States District Courts for the Northern, Middle, and Southern Districts of Alabama in 2003, and the bar of the State of Kentucky in 2005. He earned his J.D. degree in 2002 from the University of Alabama, where he received the Balch & Bingham/Harold A. Bowron Award for Academic Achievement in Labor and Employment Law. After graduating from the University of Alabama with B.A. degrees in Political Economics (1994) and Geography (1995), Mr. Carroll earned graduate degrees in International Business Management from Schiller University and Heidelberg University in Germany in 1996; Public Administration from the University of Alabama in 1998; and Mediation and Conflict Resolution from Erasmus University in The Netherlands in 1999.

**NEIL GANDHI** was admitted to the New Jersey State bar in 2005 and the New York State bar in 2006. He received a B.A. degree in Economics and History from New York University in 2001 and a J.D. degree from Fordham Law School in 2005. At Fordham, he was an associate editor of the Fordham Intellectual Property, Media, and Entertainment Law Journal. While in law school, Mr. Gandhi interned at the New York Stock Exchange.

# EXHIBIT B

## FIRM PROFILE

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### SCHIFFRIN BARROWAY TOPAZ & KESSLER, LLP

Attorneys at Law

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**S**chiffrin Barroway Topaz & Kessler, LLP, specializes in representing shareholders and consumers in complex class action litigation in state and federal courts throughout the United States. Since our inception, SBTK has recovered billions of dollars on behalf of defrauded shareholders and aggrieved consumers. The firm is led by its senior partners, Richard S. Schiffrin, Andrew L. Barroway, Marc A. Topaz, and David Kessler, with assistance from partners Stuart L. Berman, Katharine M. Ryan, Gregory M. Castaldo, Michael K. Yarnoff, Joseph H. Meltzer, Darren J. Check, Tobias L. Millrood, Andrew L. Zivitz, Sean M. Handler, John A. Kehoe, Lee D. Rudy, Kay E. Sickles, Eric L. Zagar and numerous experienced associates and staff.

SBTK focuses on the prosecution of securities fraud actions and derivative and transactional litigation brought against public companies, their officers and directors, and their auditors and investment banking firms. In addition, SBTK represents employees in ERISA/401 K actions, as well as individuals and institutions in consumer litigation, product liability and antitrust actions.

Throughout our history, SBTK has represented various private institutional investors, including public and Taft-Hartley pension funds, hedge funds, mutual fund managers, investment advisors, and insurance companies, as well as thousands of individual investors in securities fraud class actions. Currently, SBTK is serving as Lead or Co-Lead Counsel in several high profile securities class actions against companies such as Tyco, Delphi Corp., Tenet Healthcare, Sprint Corp. and PNC Bank.

## Noteworthy Achievements

During the firm's successful history, SBTK has recovered billions of dollars for defrauded stockholders and consumers. The following are among the firm's notable achievements:

***In re Tenet Healthcare Corp. Securities Litigation,  
No. CV-02-8462-RS WL (Rx) (C.D. Cal. 2002):***

SBTK serves as co-lead counsel on behalf of the State of New Jersey and its Division of Investment against Tenet Healthcare Corp. and certain of its former officers and directors. Among other things, the Lead Plaintiff alleges that defendants made a series of materially false or misleading statements and omissions concerning Tenet's business model and financial health from January 11, 2000 through November 7, 2002. After defeating defendants' motions to dismiss and performing substantial document and deposition discovery, a partial settlement has been reached in the amount of \$216.5 million in cash which will be submitted for preliminary approval by the Court in the coming weeks. The Partial Settlement is being funded primarily by Tenet and its insurance carriers (\$215 million), with personal contributions in the aggregate amount of \$1.5 million being made by two of Tenet's former officers, Jeffrey Barbakow and Thomas Mackey. In addition to the substantial cash recovery, the prosecution of this action has played a prominent role in Tenet's initiation of sweeping corporate governance reforms which have led to Tenet being ranked by various institutional rating entities as among the best corporations in America for its corporate governance. The case will continue against KPMG as the Court denied KPMG's motion to dismiss the action in its entirety in December, 2005.

***In re AremisSoft Corp. Securities Litigation,  
C.A. No. 01-CV-2486 (D.N.J. 2002):***

SBTK is particularly proud of the results recently achieved in this case before the Honorable Joel A. Pisano. This case was exceedingly complicated, as it involved the embezzlement of hundreds of millions of dollars by former officers of the Company, who are now fugitives. In settling the action, SBTK, as sole Lead Counsel, assisted in reorganizing the Company as a new Company to allow for it to continue operations, while successfully separating out the securities fraud claims and the bankrupt Company's claims into a litigation trust. The Settlement, which was recently approved, calls for the class to receive the majority of the equity in the new Company, as well as their pro rata share of any amounts recovered by the litigation trust. The Court-appointed cotrustees, Joseph P. LaSala, Esq. and Fred S. Zeidman, have retained SBTK to continue prosecuting the actions on behalf of the litigation trust. In this capacity, we have filed an action in the Isle of Man, and have successfully frozen more than \$200 million of stolen funds from one of the fugitives, and are in the process of attempting to recover the money on behalf of the trust. In addition, we are continuing to litigate the trust's claims against the remaining fugitive.

***In re The Interpublic Group of Companies Securities Litigation,  
No. 02 Civ. 6527 (S.D.N.Y. 2002):***

SBTK served as sole Lead Counsel in this action on behalf of an institutional investor and recently received final approval of a settlement consisting of \$20 million in cash and 6,551,725 shares of IPG common stock with expected distribution by early summer 2005. As of February 2005, the stock had an approximate value of \$87 million, resulting in a total settlement value of

approximately \$107 million. In granting its approval, the Court praised SBTK for acting responsibly and noted the firm's professionalism, competence and contribution to achieving such a favorable result.

***In re Digital Lightwave, Inc. Securities Litigation,  
Consolidated Case No. 98-152-CIV-T-24E (M.D. Fla. 1999):***

The firm served as Co-Lead Counsel in one of the nation's most successful securities class actions. After extensive litigation and negotiations, a settlement consisting primarily of stock ultimately grew to a value of over \$170 million between the time in which the settlement was negotiated and the time at which it was distributed. SBTK took on the primary role in negotiating the terms of the equity component, insisting that the class have the right to share in any upward appreciation in the value of the stock after the settlement was reached. This recovery represented an astounding approximately two hundred percent (200%) of class members' losses. We believe that this represents the largest percentage recovery for shareholders in securities class action history.

***In re Initial Public Offering Securities Litigation,  
Master File No. 21 MC 92 (SAS) (S.D.N.Y. Dec. 12, 2002):***

SBTK holds a prominent position as an Executive Committee member in this action. Of the sixty plaintiffs firms which originally filed actions in these coordinated proceedings, SBTK was one of only six selected to serve on the Executive Committee. The coordinated actions, which have been filed against 309 separate issuers of publicly traded securities, challenge the legality of the practices which accompany the allocations of shares in initial public offerings. In addition to suing the issuers of such securities, the 309 coordinated actions also name as defendants the primary investment banking firms which underwrote the offerings. This case, which has received a great deal of national and international media attention, is widely considered the largest securities class action litigation in history. At the present time, the Court has preliminarily approved a \$1 billion settlement with the insurers and their officers and directors. The case is proceeding against the underwriting defendants.

***In re Global Crossing, Ltd. ERISA Litigation,  
No. 02 Civ. 7453 (S.D.N.Y. 2004):***

SBTK served as Co-Lead Counsel in this complex and high-profile action which alleged that certain directors and officers of Global Crossing, a former high-flier of the late 1990's tech stock boom, breached their fiduciary duties under the Employee Retirement Income Security Act of 1974 to certain company-provided 401(k) plans and their participants. These breaches surrounded the plans' alleged imprudent investment in Global Crossing stock during a time when defendants knew, or should have known, that the company was facing imminent bankruptcy. A settlement of plaintiffs' claims restoring \$79 million to the Plans and their participants was approved in November 2004. At the time, this represented the largest recovery received in a company stock ERISA class action.

***In re Honeywell International ERISA Litigation,******No. 03-1214 (DRD) (D.N.J. 2004):***

SBTK is serving as Lead Counsel in a breach of fiduciary duty case under ERISA against Honeywell International, Inc. and certain fiduciaries of Honeywell pension plans. The suit alleges that Honeywell and the individual fiduciary defendants, allowed Honeywell's 401(k) plans and their participants to imprudently invest significant assets in company stock, despite that defendants knew, or should have known, that Honeywell's stock was an imprudent investment due to undisclosed, wide-ranging problems stemming from a consummated merger with Allied Signal and a failed merger with General Electric. A settlement of plaintiffs' claims, which includes a \$14 million payment to the plans and their affected participants, and significant structural relief affording participants much greater leeway in diversifying their retirement savings portfolios, is currently pending court approval.

***In re Remeron Antitrust Litigation,******No. 02-CV-2007 (D.N.J. 2004):***

SBTK is Co-Lead Counsel in an action challenging Organon, Inc.'s filing of certain patents and patent infringement lawsuits as an abuse of the Hatch-Waxman Act, and an effort to unlawfully extend their monopoly in the market for Remeron. Specifically, the lawsuit alleges that defendants violated state and federal antitrust laws in their efforts to keep competing products from entering the market, and seeks damages sustained by consumers and third-party payors. After lengthy litigation, including numerous motions and over 50 depositions, the matter settled for \$36 million. The settlement is pending final approval by the court.

***Henry v. Sears, et al.,******Case No. 98 C 4110 (N.D. Ill. 1999):***

The firm served as Co-Lead Counsel for one of the largest consumer class actions in history, consisting of approximately 11 million Sears credit card holders whose interest rates were improperly increased in connection with the transfer of the credit card accounts to a national bank. SBTK successfully negotiated a settlement representing approximately 66% of all class members' damages, thereby providing a total benefit exceeding \$156 million. All \$156 million was distributed automatically to the Class members, without the filing of a single proof of claim form. In approving the settlement, the District Court stated: ". . . I am pleased to approve the settlement. I think it does the best that could be done under the circumstances on behalf of the class. . . . The litigation was complex in both liability and damages and required both professional skill and standing which class counsel demonstrated in abundance."

***Jordan v. State Farm Insurance Company,******Case No. 97 CH 11 (Cir. Ct., McLean County, Ill. 1998):***

Plaintiffs alleged that State Farm had engaged in fraudulent sales practices known as "churning," and marketing and selling "vanishing premium" policies that do not actually "vanish." After several years of discovery, motion practice and settlement negotiations, SBTK, as Liaison Counsel, successfully resolved the action for \$225 million in cash, dividend enhancements and other monetary benefits for current and former State Farm policyholders.

***In re Liberate Technologies Securities Litigation,  
No. C-02-5017 (MJJ) (N.D. Cal. 2005):***

Plaintiffs alleged that Liberate engaged in fraudulent revenue recognition practices to artificially inflate the price of its stock, ultimately forcing it to restate its earnings. As sole Lead Counsel, SBTK successfully negotiated a \$13.8 million settlement, which represents almost 40% of the damages suffered by the class. In approving the settlement, the district court complimented Lead Counsel for its “extremely credible and competent job.”

***In re InfoSpace, Inc. Securities Litigation,  
Master File No. C-01-0913-Z (D. Wash. 2001):***

SBTK served as Co-Lead Counsel on behalf of plaintiffs alleging that InfoSpace and certain of its officers and directors overstated revenues by using improper accounting methods, overstated the demand for InfoSpace’s wireless services, misstated InfoSpace’s financial relationships with major customers, and falsely represented that InfoSpace would receive subscription fees from users of web-enabled cell phones. After two years of hard-fought litigation and complex mediation, a settlement of \$34.3 million was obtained for members of the class.

***In re Riverstone Networks, Inc. Securities Litigation,  
Case No. CV-02-3581 (N.D. Cal. 2002):***

SBTK served as sole lead counsel on behalf of plaintiffs alleging that Riverstone and certain of its officers and directors sought to create the impression that the Company, despite the industry-wide downturn in the telecom sector, had the ability to prosper and succeed and was actually prospering. In that regard, plaintiffs alleged that defendants issued a series of false and misleading statements concerning the Company’s financial condition, sales and prospects, and used inside information to personally profit. After extensive litigation, the parties entered into formal mediation with the Honorable Charles Legge (Ret.). Following five months of mediation, the parties reached a settlement of \$18.5 million which has been preliminarily approved by the Court.

***In re Assisted Living Concepts, Inc. Securities Litigation,  
Lead Case No. 99-167-AA (D. Or. 1999):***

SBTK served as Co-Lead Counsel and was instrumental in obtaining a \$30 million recovery for class members from the Company, its executive officers and directors, and several underwriters for their role in an alleged complex accounting fraud involving the use of a purportedly independent joint venture to absorb the Company’s start-up losses. Even after this \$30 million recovery, through counsel’s efforts, an additional \$12.5 million was obtained from the auditors providing for a total recovery of \$42.5 million.

***Wanstrath v. Doctor R. Crants, et al.,  
No. 99-1719-111 (Tenn. Chan. Ct., 20th Judicial District, 1999):***

SBTK served as Lead Counsel in a derivative action filed against the officers and directors of Prison Realty Trust, Inc., challenging the transfer of assets from the Company to a private entity owned by several of the Company’s top insiders. Numerous federal securities class actions were pending against the Company at this time. Through the derivative litigation, the Company’s top management was ousted, the composition of the Board of Directors was significantly improved,

and important corporate governance provisions were put in place to prevent future abuse. Mr. Schiffrian, in addition to achieving these desirable results, was able to personally effectuate a global settlement of all pending litigation against the backdrop of an almost certain bankruptcy. The case was resolved in conjunction with the federal securities cases for the payment of approximately \$50 million by the Company's insurers and the issuance of over 46 million shares to the class members.

***In re Cumulus Media Inc. Securities Litigation,  
Lead Case No. 00-C-391 E.D. Wis. 2000):***

SBTK served as Lead Counsel and successfully litigated the action and negotiated a settlement of \$13 million in cash and 240,000 shares of freely tradable stock in Cumulus Media, which traded for approximately \$19 per share, for a total settlement value of \$17.5 million at the time the settlement was approved by the Court.

## PARTNERS

**RICHARD S. SCHIFFRIN**, founding partner of the firm, is licensed to practice law in Illinois and Pennsylvania, and has been admitted to practice before numerous United States District Courts. In his seven years of practice with the Office of the Public Defender of Cook County, Illinois, Mr. Schiffrian represented hundreds of clients in both bench and jury trials, as well as appeals. Mr. Schiffrian has also taught legal writing and appellate advocacy at John Marshall Law School and has served as a faculty member at numerous legal seminars, including the Annual Institute on Securities Regulation, NERA: Finance, Law & Economics — Securities Litigation Seminar, the Tulane Corporate Law Institute, and the CityBar Center for CLE (NYC): Ethical Issues in the Practice of Securities Law.

Most recently, Mr. Schiffrian spoke at the MultiPensions 2005 Conference in Amsterdam, Netherlands; the Public Funds Symposium 2005 in Washington, D.C.; the European Pension Symposium in Florence, Italy; and the *Pennsylvania Public Employees Retirement Summit (PAPERS)* in Harrisburg, Pennsylvania. Mr. Schiffrian oversees all aspects of litigation on behalf of the firm. Mr. Schiffrian has been recognized for his expertise in numerous cases, including most prominently:

***In re Tenet Healthcare Corp., 02-CV-8462 (C.D. Cal.):***

Schiffrian Barroway Topaz & Kessler served as Co-Lead Counsel on behalf of plaintiffs, alleging that Tenet Healthcare and certain of its officers and directors defrauded Medicare out of hundreds of millions of dollars, materially overstated Tenet's revenues, and performed unnecessary cardiac surgeries to increase the Company's earnings. After three years of hard-fought litigation and complex mediation, Schiffrian Barroway Topaz & Kessler helped obtain a settlement involving a \$216.5 million payment from Tenet and the Company's former CEO and COO, and specific corporate governance improvements.

***In re AremisSoft Corp. Securities Litigation, C.A. No. 01-CV-2486 (D.N.J. 2002):***

Schiffrian Barroway Topaz & Kessler is particularly proud of the results achieved in this case before the Honorable Joel A. Pisano. This case was exceedingly complicated, as it involved the embezzlement of hundreds of millions of dollars by former officers of the Company, some of whom remain fugitives. In settling the action, Schiffrian Barroway Topaz & Kessler, as sole Lead Counsel, assisted in reorganizing the Company as a new Company which allowed for it to continue operations, while successfully separating out the securities fraud claims and the bankrupt Company's claims into a litigation trust. The Settlement, approved by the court, enabled the class to receive the majority of the equity in the new Company, as well as their pro rata share of all amounts recovered by the litigation trust. The court-appointed co-trustees, Joseph P. LaSala, Esq. and Fred S. Zeidman, retained Schiffrian Barroway Topaz & Kessler to further assist with prosecuting the actions on behalf of the litigation trust.

After filing an action in the Isle of Man, where the trust successfully froze more than \$200 million of stolen funds from one of the fugitives, the trust achieved a settlement of this action for \$200 million, which was returned to the United States and paid to the trust. Recently, the trust

commenced another action in Cyprus, where it obtained a Mareva injunction and interim ancillary relief against bank accounts and assets owned and/or controlled by the other principal wrongdoer.

Thus far, counsel on behalf of the trust and its beneficiaries have achieved settlements with the Company and certain of its directors and officers as well as the Company's auditors, lawyer and underwriters, for a total of more than \$250 million. The beneficiaries of the trust have already received in excess of 28% of their recognized losses.

***Henry v. Sears, et al., Case No. 98 C 4110 (N.D. Ill. 1999):***

Schiffrian Barroway Topaz & Kessler served as Lead Counsel on behalf of the largest class of credit card holders in history. At stake was the right of Sears and its newly formed affiliate, Sears National Bank ("SNB"), to retroactively increase the interest rates on eleven million credit card accounts with outstanding balances resulting from purchases made prior to the accounts being transferred to SNB. Schiffrian Barroway Topaz & Kessler alleged that such conduct violated the Truth-in-Lending Act, the National Banking Act and state consumer fraud statutes. After extensively litigating various aspects of liability, an additional nine months were then spent determining damages. The extraordinary complexity of the damage calculations required Mr. Schiffrian and experts from both parties to develop, test and utilize a novel computer model to ascertain total damages for the class and individualized damages for each class member. Ultimately, Mr. Schiffrian and his partner, Mr. Kessler, were able to negotiate a \$156 million settlement, which represented approximately 66% of total damages. In approving the settlement, District Court Judge Leinenweber of the Northern District of Illinois stated:

*... I am pleased to approve the settlement. I think it does the best that could be done under the circumstances on behalf of the class. ... The litigation was complex in both liability and damages and required both professional skill and standing which class counsel demonstrated in abundance.*

The entire settlement fund of \$156 million was distributed without the filing of a single proof of claim form by any class member.

***Wanstrath v. Doctor R. Crants, et al., C.A. No. 99-1719-III (Tenn. Chan. Ct., 20th Judicial District, 1999):***

Schiffrian Barroway Topaz & Kessler served as Lead Counsel in a derivative action filed against the officers and directors of Prison Realty Trust, Inc., challenging the transfer of assets from the Company to a private entity owned by several of the Company's top insiders. Numerous federal securities class actions were pending against the Company at this time. Through the derivative litigation, the Company's top management was ousted, the composition of the Board of Directors was significantly improved and important corporate governance provisions were put in place to prevent future abuse. Mr. Schiffrian, in addition to achieving these desirable results, was able to personally effectuate a global settlement of all pending litigation against the backdrop of an almost certain bankruptcy. The case was resolved in conjunction with the federal securities cases

for the payment of approximately \$50 million by the Company's insurers and the issuance of over 46 million shares to the class members.

***Jordan v. State Farm Insurance Company, Case No. 97 CH 11 (Cir. Ct., McLean County, Ill. 1998):***

Schiffrin Barroway Topaz & Kessler brought a claim on behalf of multiple plaintiffs alleging that State Farm had engaged in fraudulent sales practices by "churning" policies and marketing and selling "vanishing premium" policies that never "vanished." After several years of discovery, motion practice and settlement negotiations, Mr. Schiffrin played a critical role in resolving the action for \$225 million in cash, dividend enhancements and other monetary benefits for current and former State Farm policyholders. Schiffrin Barroway Topaz & Kessler also has achieved substantial settlements in 20 additional cases alleging fraudulent sales practices by various insurance companies.

Mr. Schiffrin has also represented defrauded shareholders and companies in complex class and derivative actions, including the following:

***Huscher v. Curley, et al., No. 00 Civ. 21379 (Mich. Cir. Ct., 2000) (In re Sotheby's Holdings, Inc. Derivative Litigation):***

Schiffrin Barroway Topaz & Kessler served as Lead Counsel in a derivative action arising out of Sotheby's alleged antitrust price fixing conspiracy with auction house rival Christie's International PLC. A multi-million dollar settlement was negotiated by Mr. Schiffrin whereby Diana Brooks (Sotheby's President at the time of the alleged wrongdoing) agreed to relinquish all of her Sotheby's stock options, and the Company's insurance carrier made a substantial monetary payment to the Company. In addition, significant changes in the Company's top management and Board of Directors were achieved in conjunction with the settlement of the litigation.

**ANDREW L. BARROWAY**, managing partner of the firm, received his law degree from the University of Pennsylvania Law School, where he was a member of the ABA Negotiation team. He is licensed to practice law in Pennsylvania and New Jersey, and has been admitted to practice before the United States District Court for the Eastern District of Pennsylvania. Mr. Barroway frequently lectures on securities class action and lead plaintiff issues, and recently spoke at the 2005 Institutional Investor Hedge Fund Workshop in New York City and the Public Funds Summit 2005 in Phoenix, Arizona. Mr. Barroway has been actively involved in all aspects of litigation on behalf of the firm, and co-manages the firm's securities department. Of his numerous successful representations of shareholders, the following stand out as exceptional:

***In re The Interpublic Group of Companies Securities Litigation, No. 02 Civ. 6527 (S.D.N.Y. 2002):***

Schiffrin Barroway Topaz & Kessler served as sole Lead Counsel in this action on behalf of an institutional investor and recently received final approval of a settlement consisting of \$20 million in cash and 6,551,725 shares of IPG common stock. As of February 2005, the stock had

an approximate value of \$87 million, resulting in a total settlement value of approximately \$107 million. In granting its approval, the Court praised Schiffrian Barroway Topaz & Kessler for acting responsibly and noted the firm's professionalism, competence and contribution to achieving such a favorable result.

***In re Digital Lightwave, Inc. Securities Litigation, Consolidated Case No. 98-152-CIV-T-24E (M.D. Fla. 1999):***

The firm served as Co-Lead Counsel in one of the nation's most successful securities class actions. After extensive litigation and negotiations, a settlement consisting primarily of stock ultimately grew to a value of over \$170 million between the time in which the settlement was negotiated and the time at which it was distributed. Schiffrian Barroway Topaz & Kessler took on the primary role in negotiating the terms of the equity component, insisting that the class have the right to share in any upward appreciation in the value of the stock after the settlement was reached. This recovery represented an astounding approximately two hundred percent (200%) of class members' losses. Schiffrian Barroway Topaz & Kessler believes that this represents the largest percentage recovery for shareholders in securities class action history.

Mr. Barroway, along with his partner, Mr. Kessler, has also negotiated substantial settlements of securities class actions in which Schiffrian Barroway Topaz & Kessler was Lead or Co-Lead Counsel against Pinnacle Holdings, Cell Pathways, Gateway, Mercator and NetSolve. Mr. Barroway currently represents numerous public pension funds, private investment funds, money management firms, and individuals in securities fraud litigation as Lead or Co-Lead Counsel.

**MARC A. TOPAZ**, a senior partner of the firm, received his law degree from Temple University School of Law, where he was an editor of the Temple Law Review and a member of the Moot Court Honor Society. He also received his Master of Law (L.L.M.) in taxation from the New York University School of Law, where he served as an editor of the New York University Tax Law Review. He is licensed to practice law in Pennsylvania and New Jersey, and has been admitted to practice before the United States District Court for the Eastern District of Pennsylvania. Mr. Topaz manages the firm's derivative, transactional and antitrust departments. In this regard, Mr. Topaz has been actively involved in litigating the following prominent cases:

***In re MTC Electronic Shareholder Litigation, No. CV-93-0876 (E.D.N.Y. 1993):***

Schiffrian Barroway Topaz & Kessler served as Co-Counsel in a case involving securities fraud by MTC, its officers and directors, underwriters and accountants. The case presented novel issues of Chinese law, and required the construction of a database of hundreds of thousands of documents utilized in numerous party and non-party depositions. A \$72 million settlement was achieved on the eve of trial.

***In re Oppenheimer Capital, L.P., Unitholders Litigation, Consolidated No. 16022NC (Del. Ch. 1997):***

Schiffrian Barroway Topaz & Kessler served as Co-Lead Counsel on behalf of plaintiffs alleging that a merger proposed by Pimco Advisors benefitted certain Pimco insiders by

disproportionately allocating tax benefits achieved from the restructuring of a limited partnership, and failing to provide adequate compensation to the Oppenheimer shareholders. Plaintiffs moved to enjoin the transaction and a settlement was reached whereby defendants agreed to pay a special dividend to Oppenheimer limited partners of approximately \$16 million.

***Wanstrath v. Doctor R. Crants, et al., C.A. No. 99-1719-III  
(Tenn. Chan. Ct., 20th Judicial District, 1999):***

Schiffrin Barroway Topaz & Kessler served as Lead Counsel in a derivative action filed against the officers and directors of Prison Realty Trust, Inc., challenging the transfer of assets from the Company to a private entity owned by several of the Company's top insiders. Numerous federal securities class actions were pending against the Company at this time. Through the derivative litigation, the Company's top management was ousted, the composition of the Board of Directors was significantly improved and important corporate governance provisions were put in place to prevent future abuse. Mr. Schiffrin, in addition to achieving these desirable results, was able to personally effectuate a global settlement of all pending litigation against the backdrop of an almost certain bankruptcy. The case was resolved in conjunction with the federal securities cases for the payment of approximately \$50 million by the Company's insurers and the issuance of over 46 million shares to the class members.

**DAVID KESSLER**, a senior partner of the firm, graduated with distinction from the Emory School of Law. He is licensed to practice in Pennsylvania and New Jersey, and has been admitted to practice before the United States District Court for the Eastern District of Pennsylvania and the United States District Court for the District of New Jersey. Prior to practicing law, Mr. Kessler was a Certified Public Accountant in Pennsylvania. Mr. Kessler co-manages the firm's nationally recognized securities department. In addition, Mr. Kessler often lectures on securities litigation and was a featured speaker on hot topics in securities litigation in a seminar entitled "The Explosion and Evolution of Class Action Law" in December 2004 in Philadelphia, Pennsylvania, and the Corporate Governance Summit on Corporate Accountability in July 2003 in New York City. Mr. Kessler has achieved the following outstanding results in federal securities cases:

***In re Initial Public Offering Securities Litigation, Master File No. 21 MC 92 (SAS) (S.D.N.Y. Dec. 12, 2002):***

Mr. Kessler, along with Mr. Schiffrin, is presently heading up the firm's litigation efforts in its prominent position as an Executive Committee member in this action. Of the sixty plaintiffs firms which originally filed actions in these coordinated proceedings, Schiffrin Barroway Topaz & Kessler was one of only six selected to serve on the Executive Committee. The coordinated actions, which have been filed against 309 separate issuers of publicly traded securities, challenge the legality of the practices which accompany the allocations of shares in initial public offerings. In addition to suing the issuers of such securities, the 309 coordinated actions also name as defendants the primary investment banking firms which underwrote the offerings. This case, which has received a great deal of national and international media attention, is widely considered the largest securities class action litigation in history. At the present time, the court has preliminarily approved a \$1 billion settlement with the issuers and their officers and

directors. The class has also reached an agreement in principle to resolve the action against JP Morgan for \$425 million, which is in the process of being memorialized and submitted to the Court for approval. The case is proceeding against the remaining underwriting defendants.

***In re PNC Financial Services Group, Inc. Litigation, Case No. 02-CV-271 (W.D. Pa. 2002):***

Schiffrin Barroway Topaz & Kessler served as Co-Lease Counsel and was instrumental in obtaining a \$30 million recovery for class members from PNC and the assignment of certain claims it may have had against its audit and other third party law firms and insurance companies, with respect to an alleged fraudulent scheme wherein non-performing assets were removed from PNC's books and transferred to special purpose entities that PNC allegedly still controlled. An additional \$6.6 million was recovered from the insurance company and the law firms and an agreement in the principle has now been reached with the audit to resolve all claims for another \$9.075 million, providing for a total recovery from the securities litigation of \$45.675 million upon approval of the auditor settlement. When coupled with the \$156 million restitution fund established through government actions against some of the same defendants and third parties, the total recovery for class members exceeds \$200 million.

***In re Assisted Living Concepts, Inc. Securities Litigation, Lead Case No. 99-167-AA (D. Or. 1999):***

Schiffrin Barroway Topaz & Kessler served as Co-Lead Counsel and was instrumental in obtaining a \$30 million recovery for class members from the Company, its executive officers and directors, and several underwriters for their role in an alleged complex accounting fraud involving the use of a purportedly independent joint venture to absorb the Company's startup losses. Even after this \$30 million recovery, through counsel's efforts, an additional \$12.5 million was obtained from the auditors providing for a total recovery of \$42.5 million.

***In re Cumulus Media Inc. Securities Litigation, Lead Case No. 00-C-391 (E.D. Wis. 2000):***

Schiffrin Barroway Topaz & Kessler served as Lead Counsel and successfully litigated the action and negotiated a settlement of \$13 million in cash and 240,000 shares of freely tradable stock in Cumulus Media, which traded for approximately \$19 per share, for a total settlement value of \$17.5 million at the time the settlement was approved by the Court.

**KATHARINE M. RYAN**, a partner of the firm, graduated *cum laude* from Villanova University School of Law in May 1984. Ms. Ryan is admitted to practice before the United States District Court for the Eastern District of Pennsylvania, the Court of Appeals for the Third Circuit and the United States Supreme Court. Ms. Ryan recently participated as a speaker in a legal teleconference entitled "Is the PSLRA's Safe Harbor Provision Safe?" Ms. Ryan is actively involved in litigating several of the firm's most prominent cases and was integral in the excellent results achieved in the following cases:

***In re The Interpublic Group of Companies Securities Litigation, No. 02 Civ. 6527 (S.D.N.Y. 2002):***

Schiffren Barroway Topaz & Kessler served as sole Lead Counsel in this action on behalf of an institutional investor and recently received final approval of a settlement consisting of \$20 million in cash and 6,551,725 shares of IPG common stock. As of February 2005, the stock had an approximate value of \$87 million, resulting in a total settlement value of approximately \$107 million. In granting its approval, the Court praised Schiffren Barroway Topaz & Kessler for acting responsibly and noted the firm's professionalism, competence and contribution to achieving such a favorable result.

***In re New Power Holdings, Inc. Securities Litigation, No. 02 Civ. 1550 (S.D.N.Y. 2002):***

Schiffren Barroway Topaz & Kessler served as Co-Lead Counsel and was instrumental in obtaining a recovery of \$41 million in cash for class members against a bankrupt company, certain of its officers and directors and the underwriters of the Company's offering. Claims involved New Power, an offshoot of Enron, that was formed to re-enter the deregulated energy market and pursued an IPO with no viable plan to hedge against volatile energy prices.

**STUART L. BERMAN**, a partner of the firm, received his law degree from George Washington University National Law Center, and his undergraduate degree from Brandeis University. He is licensed to practice law in Pennsylvania and New Jersey, and has been admitted to practice before the United States District Court for the Eastern District of Pennsylvania and the United States District Court for the District of New Jersey. Mr. Berman manages the firm's lead plaintiff department and has been instrumental in courts appointing many of the firm's institutional and individual clients as lead plaintiffs in important cases, such as:

***In re Tenet Healthcare Corp. Securities Litigation, No. CV-02-8462- RSWL (C.D. Cal. 2002),***

***State of New Jersey and its Division of Investment v. Sprint Corporation, et al., No. 2:03-CV-02071-JWL (D. Kan. 2003),***

***In re The Interpublic Group of Companies Securities Litigation, No. 02 Civ. 6527 (S.D.N.Y. 2002), State of New Jersey and Its Division of Investment v. Sprint Corporation, et al., No. 03-2071-JWL (D. Kan. 2003),***

***In re Delphi Corp. Sec. Litig., 1:05-CV-2637 (NRB) (S.D.N.Y. 2005);***

***In re Vaxgen Inc. Securities Litigation, No. C 03-01129 JSW (N.D. Cal. 2003),***

***In re American Business Financial Services, Inc., No. 04- 0265 (E.D. Pa. 2004)***

***In re Autobytel, Inc. Securities Litigation, No. CV04-8987 MMM (JWJx) (C.D. Cal. 2004).***

Mr. Berman represents and works with institutional investors worldwide in securities litigation and other related matters. In addition, Mr. Berman is a frequent speaker on securities issues, especially as they relate to institutional investors, and has been a speaker at such events as The European Pension Symposium in Florence, Italy; the Public Funds Symposium 2005 in Washington, D.C.; the Pennsylvania Public Employees Retirement (PAPERS) Summit in Harrisburg, Pennsylvania; and the New England Pension Summit in Newport, Rhode Island; the Rights and Responsibilities for Institutional Investors 2006 in Amsterdam, Netherlands; and the European Investment Roundtable 2006 in Barcelona, Spain. He speaks with institutional investors located around the world regarding their rights and obligations associated with securities fraud class actions and individual actions. Mr. Berman works closely with the firm's institutional investors and counsels them on fulfilling their fiduciary obligations and exercising their rights in all types of securities related actions.

Mr. Berman has specialized in the area of securities litigation for the past nine years. He is particularly proud of the results achieved in *In re AremisSoft Corp. Sec. Litig.*, C.A. No. 01-CV-2486 (D.N.J. 2002), a case on which Mr. Berman and his partner, Richard Schiffrian, have worked extensively. This case was exceedingly complicated, as it involved the embezzlement of hundreds of millions of dollars by former officers of the Company, some of whom are now fugitives. In settling the action, Schiffrian Barroway Topaz & Kessler, as sole Lead Counsel, assisted in reorganizing AremisSoft as a new Company which allowed for it to continue operations, while successfully separating out the securities fraud claims and the bankrupt Company's claims into a litigation trust. The Settlement, which was approved by the Court, called for the class to receive the majority of the equity in the new Company, as well as their pro rata share of all amounts recovered by the litigation trust. The Court-appointed co-trustees, Joseph P. LaSala, Esq. and Fred S. Zeidman, retained Schiffrian Barroway Topaz & Kessler to continue prosecuting the actions on behalf of the litigation trust. After extensive litigation in the Isle of Man, including the successful freezing of more than \$200 million of stolen funds, the trust recently settled its action against one of the principal wrongdoers and recovered approximately \$200 million. Thus far, the trust has distributed to beneficiaries of the trust more than 28% of their recognized losses (excluding the value of the equity of the new Company), and is poised to recover even more. Recently, the trust commenced further litigation in Cyprus, where it obtained a Mareva injunction and interim ancillary relief against bank accounts and assets owned and/or controlled by the other principal wrongdoer.

**GREGORY M. CASTALDO**, a partner of the firm, received his law degree from Loyola Law School, where he received the American Jurisprudence award in legal writing. He received his undergraduate degree from the Wharton School of Business at the University of Pennsylvania. He is licensed to practice law in Pennsylvania and New Jersey. Mr. Castaldo has been actively involved in litigating the following cases:

***In re Tenet Healthcare Corp., 02-CV-8462 (C.D. Cal.):***

Schiffrian Barroway Topaz & Kessler served as Co-Lead Counsel on behalf of plaintiffs, alleging that Tenet Healthcare and certain of its officers and directors defrauded Medicare out of hundreds of millions of dollars, materially overstated Tenet's revenues, and performed unnecessary cardiac surgeries to increase the Company's earnings. After three years of hard-

fought litigation and complex mediation, Schiffrian Barroway Topaz & Kessler helped obtain a settlement involving a \$216.5 million payment from Tenet and the Company's former CEO and COO, and specific corporate governance improvements.

***In re Liberate Technologies Securities Litigation, No. C-02-5017 (MJJ) (N.D. Cal. 2005):***

Plaintiffs alleged that Liberate engaged in fraudulent revenue recognition practices to artificially inflate the price of its stock, ultimately forcing it to restate its earning. As sole Lead Counsel, Schiffrian Barroway Topaz & Kessler successfully negotiated a \$13.8 million settlement, which represents almost 40% of the damages suffered by the class. In approving the settlement, the district court complimented Lead Counsel for its "extremely credible and competent job."

***In re Sodexho Marriott Shareholders Litigation,***

Consol. C.A. No. 18640-NC, Delaware Chancery Court, in which Class Counsel was partially responsible for creating an aggregate financial benefit of approximately \$166 million for members of the class.

Mr. Castaldo is also presently *State of New Jersey and Its Division of Investment v. Sprint Corporation, et al.*, No. 03-2071-JWL (D. Kan. 2003) among other actions.

**MICHAEL K. YARNOFF**, a partner of the firm, received his law degree from Widener University School of Law. Mr. Yarnoff is licensed to practice law in Pennsylvania, New Jersey, and Delaware and has been admitted to practice before the United States District Courts for the Eastern District of Pennsylvania and the District of New Jersey. He serves in the firm's securities litigation department and has been actively involved in a number of federal securities cases in which outstanding results were achieved, including the following:

***In re CVS Corporation Securities Litigation, C.A. No. 01-11464 JLT (D.Mass.):***

After more than three years of contentious litigation and a series of protracted mediation sessions, Schiffrian Barroway Topaz & Kessler, LLP, serving as co-lead counsel, secured a \$110 million recovery for class members in the CVS Securities Litigation. Specifically, the suit alleged that CVS violated accounting practices by delaying discounts on merchandise in an effort to prop up its earnings. In addition, the suit charged that in 2001, the Company and its Chief Executive Officer, Thomas M. Ryan, improperly delayed announcement of its intention to close approximately 200 underperforming stores, and that an industry-wide pharmacist shortage would have a materially negative impact on the Company's performance. Settlement was reached just days prior to the commencement of trial, and shortly after the district court had denied the defendants' motions for summary judgment. This substantial recovery, which represents the third-largest settlement in a securities class action case in the First Circuit, received final approval from District Judge Joseph Tauro on September 27, 2004.

***In re InfoSpace, Inc. Securities Litigation, Master File No. C-01-0913-Z (D. Wash. 2001):***

Schiffzin Barroway Topaz & Kessler served as Co-Lead Counsel on behalf of plaintiffs alleging that InfoSpace and certain of its officers and directors overstated revenues by using improper accounting methods, overstated the demand for InfoSpace's wireless services, misstated InfoSpace's financial relationships with major customers, and falsely represented that InfoSpace would receive subscription fees from users of web-enabled cell phones. After two years of hard-fought litigation and complex mediation, a settlement of \$34.3 million was obtained for members of the class.

***In re Riverstone Networks, Inc. Securities Litigation, Case No. CV-02-3581 (N.D. Cal. 2002):***

Schiffzin Barroway Topaz & Kessler served as Lead Counsel on behalf of plaintiffs alleging that Riverstone and certain of its officers and directors sought to create the impression that the Company, despite the industry-wide downturn in the telecom sector, had the ability to prosper and succeed and was actually prospering. In that regard, plaintiffs alleged that defendants issued a series of false and misleading statements concerning the Company's financial condition, sales and prospects, and used inside information to personally profit. After extensive litigation, the parties entered into formal mediation with the Honorable Charles Legge (Ret.). Following five-months of mediation, the parties reached a settlement of \$18.5 million.

**JOSEPH MELTZER**, a partner of the firm, concentrates his practice in the areas of ERISA and antitrust complex litigation. He is licensed to practice law in Pennsylvania and New Jersey and is admitted to practice before numerous United States District Courts and United States Courts of Appeals, including the United States Court of Appeals for the Third Circuit.

Mr. Meltzer manages the firm's ERISA Litigation Department, which has excelled in the highly specialized area of prosecuting claims on behalf of retirement savings plans. Mr. Meltzer is lead counsel in several pending nationwide class actions brought under ERISA, including *Lewis v. El Paso Corp.* (S.D. Tex.); *In re Sears, Roebuck & Co. ERISA Litigation* (N.D. Ill.); *In re Loral Space ERISA Litigation* (S.D.N.Y.) and *In re Schering-Plough Corp. ERISA Litig.*, where the firm obtained an important ruling from the Third Circuit reversing the District Court's dismissal and confirming the rights of pension plan participants to pursue these claims. *See* 420 F.3d 231, *amended by* No. 04-CV-3073, 2005 U.S. App. LEXIS 19826 (3d Cir., Sept. 15, 2005). He is a frequent lecturer on ERISA litigation and employee benefits issues, is a member of the ABA's Section Committee on Employee Benefits and has been recognized by numerous courts for his ability and expertise in this complex area of the law. Since helping to establish the ERISA Litigation Department, Mr. Meltzer has recovered well over \$250 million for retirement plan participants, including in the following prominent cases:

***In re AOL Time Warner ERISA Litig.***, C.A. No. 02-8853 (S.D.N.Y.): The firm served as Co-Lead Counsel in one of the most successful ERISA class actions. Following extensive litigation, including motions for summary judgment, Mr. Meltzer helped negotiate a settlement of \$100 million for a class of retirement plan participants. To date, this is the second largest settlement for a case of this type and the largest in a case involving a non-bankrupt company.

***In re Global Crossing Ltd. ERISA Litig.***, No. 02-7453 (S.D.N.Y.): The firm served as Co-Lead Counsel in one of the earliest ERISA class actions involving employer securities and seeking relief under ERISA sec. 502(a)(2). After extensive litigation and complex negotiations, the firm helped secure a recovery of over \$78 million for retirees whose nest eggs were badly impacted by the collapse of Global Crossing.

Mr. Meltzer also manages the firm's Antitrust Department and serves as lead counsel in numerous nationwide antitrust actions where he represents such clients as the Pennsylvania Turnpike Commission, the Southeastern Pennsylvania Transportation Authority (SEPTA) and the Sidney Hillman Health Center of Rochester. As lead counsel, he has helped obtain several multi-million dollar settlements, including settlements in *In re Remeron Antitrust Litigation*, 02-CV-2007 (D.N.J.) (\$36 million settlement) and *In re Augmentin Antitrust Litigation*, 02-442 (E.D. Va.) (\$29 million settlement). Mr. Meltzer also lectures on issues related to antitrust litigation and is a member of the ABA's Section Committee on Antitrust Law.

In addition to the ERISA Litigation and Antitrust Departments, Mr. Meltzer manages the firm's Consumer Fraud Department. An honors graduate of the University of Maryland, he received his law degree with honors from Temple University School of Law. Prior to joining Schiffriin & Barroway, Mr. Meltzer practiced at Barrack, Rodos & Bacine in Philadelphia, where he had prominent roles in prosecuting several complex class actions to successful conclusions and also defended clients in antitrust and commercial litigation.

**DARREN J. CHECK**, a partner of the firm, concentrates his practice in the area of securities litigation and institutional investor relations. He is a graduate of Franklin & Marshall College where he received a degree in History, *with honors*. Mr. Check received his law degree from Temple University School of Law and is licensed to practice law in Pennsylvania and New Jersey, and has been admitted to practice before the United States District Court for the Eastern District of Pennsylvania, the United States District Court for the District of New Jersey, and the United States District Court for the District of Colorado. Mr. Check began his career at Schiffriin Barroway Topaz & Kessler by working extensively with partner David Kessler on *In re Initial Public Offering Securities Litigation*, No. 21 MC 92 (SAS) (S.D.N.Y. Dec. 12, 2002), widely considered the largest securities class action in history.

Currently, Mr. Check concentrates his time as the firm's Director of Institutional Relations. He consults with institutional investors from around the world regarding their rights and responsibilities with respect to their investments and taking an active role in shareholder litigation. Mr. Check assists clients in evaluating what systems they have in place to identify and monitor shareholder litigation that has an affect on their investments, and also assists them in evaluating the strength of such cases and to what extent they may be affected by the conduct that has been alleged. He currently works with clients in the U.S., Canada, United Kingdom, France, Italy, Sweden, Denmark, Finland, Norway, Germany, Austria, and the Netherlands. Mr. Check regularly speaks on the subjects of shareholder litigation, corporate governance, investor activism, and how Schiffriin Barroway Topaz & Kessler's services can be of use to investors. Recently, Mr. Check spoke at the MultiPensions 2005 Conference in Amsterdam, Netherlands; the 2005 European Pension Symposium in Florence, Italy; the Public Funds Summit 2005 in Phoenix, Arizona; the European Investment Roundtable in Barcelona, Spain; The Rights &

Responsibilities Of Institutional Investors: European and U.S. Approaches To Active Ownership in Amsterdam, Netherlands; the Corporate Governance & Responsible Investment Summit, Stockholm, Sweden; Pension Fund Investment World – Germany in Frankfurt, Germany; and the 2007 European Pension Symposium in Lisbon, Portugal.

**TOBIAS MILLROOD**, a partner of the firm, manages the mass tort department at Schiffрин Barroway Topaz & Kessler. Mr. Millrood has been actively involved in mass tort litigation involving Prempro (Hormone Therapy), Guidant Cardiac Devices, Medtronic Cardiac Devices, Vioxx, Fen-Phen, Baycol, Meridia, Thimerosal, Ephedra and Zyprexa.

Mr. Millrood has been distinguished with leadership roles in several national products liability actions. Mr. Millrood currently serves as Liaison Counsel in *In Re Hormone Therapy Litigation*, Philadelphia Court of Common Pleas. Mr. Millrood also serves on the Plaintiffs' Steering Committee in *MDL 1507 – In Re Prempro Products Liability* and is Chair of the Association of Trial Lawyers of America (ATLA) Hormone Therapy Litigation Group. Mr. Millrood served as a Co-Chair of the Expert Committee in *In Re Baycol Litigation*, Philadelphia Court of Common Pleas. In Meridia, Mr. Millrood is Co-Chair of the ATLA Meridia Litigation Group. He also served on the Executive Committee of *MDL 1481, In re Meridia Products Liability*. In Thimerosal, Mr. Millrood serves on the Executive Committee of the Omnibus Autism Proceedings before the National Vaccine Injury Compensation Program. In August 2003, Mr. Millrood's article on Hormone Therapy was published in *Trial* magazine. Mr. Millrood speaks frequently at various seminars, on the topics of Mass Tort Litigation, Hormone Therapy, Cardiac Device Litigation, Meridia, the Ethics of Settling Mass Tort Cases and Electronic Discovery. Mr. Millrood has helped his clients to achieve millions of dollars in settlement of their product liability claims.

Prior to joining Schiffрин Barroway Topaz & Kessler, LLP, Mr. Millrood practiced at Anapol Schwartz. While at Anapol Schwartz, Mr. Millrood garnered several notable achievements, including serving as co-counsel in a \$22 million medical malpractice verdict in *Wallace v. Fraider* (Phila. CCP Mar. 2001), one of the highest in state history. He also wrote and argued cases resulting in significant changes to Pennsylvania law: *Cullen v. Pennsylvania Prop. & Cas. Ins. Guar. Ass'n*, 760 A.2d 1198 (Pa. Commw. 2000) (Pennsylvania workers' compensation carrier could not assert a subrogated claim for benefits that its insured's employee was precluded from recovering in settlement of a related medical malpractice claim); and *Estate of Magette v. Goodman*, 2001 WL 218981 (Pa. Super. 2001) (failure to retain evidence of EKG strip during orthopedic surgery that resulted in death of patient required new trial where court failed to give jury adverse inference instruction).

Mr. Millrood received his law degree from University of Tulsa College of Law. He is licensed to practice law in Pennsylvania and New Jersey, and has been admitted to practice before the United States District Court for the Eastern District of Pennsylvania, the United States District Court for the District of New Jersey and the United States Court of Appeals for the Third Circuit. Mr. Millrood is a former member of the Pennsylvania Trial Lawyers Board of Governors and the Executive Committee of the Philadelphia Bar Association Young Lawyers' Division.

**ANDREW L. ZIVITZ**, a partner of the firm, received his law degree from Duke University School of Law, and received a Bachelor of Arts degree, with distinction, from the University of Michigan, Ann Arbor. Prior to joining Schiffrian Barroway Topaz & Kessler, Mr. Zivitz practiced with the Philadelphia law firms of Klehr, Harrison, Harvey, Branzburg & Ellers, LLP and Drinker Biddle & Reath, LLP, where he litigated complex commercial and environmental matters.

Mr. Zivitz is admitted to practice law in Pennsylvania and New Jersey, and has been admitted to practice before the United States District Court for the Eastern District of Pennsylvania and the United States District Court for the District of New Jersey. Mr. Zivitz concentrates his practice in the area of securities litigation, and is Lead or Co-Lead Counsel in several of the largest class action securities cases currently pending nationwide. In addition, Mr. Zivitz has been actively involved in a number of federal securities cases in which outstanding results were achieved, including the following:

***In re Tenet Healthcare Corp., 02-CV-8462 (C.D.Cal.):***

Schiffrian Barroway Topaz & Kessler served as Co-Lead Counsel on behalf of plaintiffs, alleging that Tenet Healthcare and certain of its officers and directors defrauded Medicare out of hundreds of millions of dollars, materially overstated Tenet's revenues, and performed unnecessary cardiac surgeries to increase the Company's earnings. After three years of hard-fought litigation and complex mediation, Schiffrian Barroway Topaz & Kessler helped obtain a settlement involving a \$216.5 million payment from Tenet and the Company's former CEO and COO, and specific corporate governance improvements.

***In re Computer Associates, No. 02-CV-1226 (E.D.N.Y.):***

Schiffrian Barroway Topaz & Kessler served as Co-Lead Counsel on behalf of plaintiffs, alleging that Computer Associates and certain of its officers misrepresented the health of the company's business, materially overstated the company's revenues, and engaged in illegal insider selling. After nearly two years of litigation, Schiffrian Barroway Topaz & Kessler helped obtain a settlement of \$150 million from the company.

***In re McLeod USA Inc., No. C02-0001-MWB (N.D. Iowa):***

Schiffrian Barroway Topaz & Kessler served as Co-Lead Counsel on behalf of plaintiffs, alleging that McLeod USA and certain of its officers misrepresented the health and prospects of the company's business. After more than three years of litigation, Schiffrian Barroway Topaz & Kessler helped obtain a settlement of \$30 million from the defendants.

***In re Ligand Pharmaceuticals, Inc., 04-CV-1620-DMS (S.D. Cal):***

Schiffrian Barroway Topaz & Kessler served as Lead Counsel and was instrumental in obtaining a recovery of \$8.0 million for class members against Ligand Pharmaceuticals and certain of its officers. Plaintiffs brought claims against the defendants on the grounds that they touted the financial condition of the company and their ability to predict and monitor inventory returns

when, in fact, the Company's revenues and earnings were artificially inflated and defendants had no ability to meaningfully predict or gauge inventory returns.

***In re Aon Corp., No. 02-CV-5631 (N.D. Ill.).***

Schiffrin Barroway Topaz & Kessler served as Lead Counsel and was instrumental in obtaining a recovery of \$7.25 million for class members against Aon Corp. and certain of its officers. Plaintiffs brought claims against the defendants on the grounds that they touted the prospects and successes of the company's multi-million dollar "Business Transformation Plan," when in fact they knew that the plan was damaging the company's business.

**SEAN M. HANDLER**, a partner of the firm, received his Bachelor of Arts degree from Colby College, graduating *with distinction* in American Studies. Mr. Handler then earned his Juris Doctor, *cum laude*, from Temple University School of Law.

After law school, Mr. Handler practiced labor law at Reed Smith, LLP in Philadelphia. Since joining Schiffrin Barroway Topaz & Kessler, Mr. Handler has concentrated his practice in the area of securities litigation, with a particular emphasis on client development, litigation strategy and lead plaintiff litigation. In this role, Mr. Handler has been responsible for numerous reported decisions.

In addition to these responsibilities, Mr. Handler also spends considerable time litigating ongoing securities litigation matters on behalf of institutional clients, including:

***In re Delphi Corporation Securities Litigation, No. 06-10026 (GER) (E.D. MI.)***

***Smajlaj v. Brocade Communications Systems, Inc., et al., No. 05-cv-02042 (CRB) (N.D. Cal.)***

***State of New Jersey and Its Division of Investment v. Sprint Corporation, et al., No. 03-2071-JWL (D. Kan. 2003).***

**JOHN A. KEHOE**, a partner of the firm, received his B.A. from DePaul University, and an M.P.A., *with high honors*, from the University of Vermont. He earned his J.D., *magna cum laude*, from Syracuse University College of Law, where he was an Associate Editor of the Syracuse Law Review, Associate Member of the Moot Court Board, and Alternate Member of the National Appellate Team.

During his legal career, Mr. Kehoe has litigated high profile securities and antitrust actions in federal and state courts, including *Ohio Public Employees Retirement System et al. v. Freddie Mac et al.*, 03-CV-4261 (S.D.N.Y) (resulting in a \$410 million combined class and derivative settlement); *In re Bristol-Myers Squibb Sec. Litig.*, 02-CV-2251 (S.D.N.Y) (resulting in a \$300 million class settlement); *In re Adelphia Communications Corp. Sec. & Der. Litig.*, No. 03 MD 1529 (S.D.N.Y) (resulting in a \$460 million class settlement); and *In re Vitamins Antitrust Litig.*, MDL No. 1285 (D.D.C) (resulting in more than \$2 billion in federal and state class and direct action settlements).

Mr. Kehoe is currently among the lead trial attorneys representing individual and institutional investors in 309 separate class actions that have been consolidated for pretrial purposes in *In re Initial Public Offering Sec. Litig.*, No. 21 MC 92 (S.D.N.Y.) (resulting in over \$1 billion in class settlements with additional claims pending against various underwriter defendants). He is also serving as lead or co-lead counsel in *Reynolds v. Repsol YPF S.A.*, 06-CV-00733 (S.D.N.Y.); *Mizzaro v. Home Depot Inc.*, 06-CV-1151 (N.D. Ga.); and *In re AremisSoft Corp. Sec. Litig.*, 01-CV-2486 (D.N.J.).

Prior to joining Schiffрин Barroway Topaz & Kessler, Mr. Kehoe spent six years as an associate at Clifford Chance LLP, where he represented Fortune 500 corporations and their officers and directors in complex commercial litigation and in actions brought by the Department of Justice, the Securities and Exchange Commission and the Federal Trade Commission.

Mr. Kehoe is a member of the Association of the Bar of the City of New York and the New York Bar Association and is admitted to practice before the courts of New York State (1999) and the U.S. District Court for the Southern District of New York (2000).

**LEE D. RUDY**, a partner of the firm, received his law degree from Fordham University in 1996. In law school he was a senior editor of the Fordham Urban Law Journal and published *A Procedural Approach to Limited Public Forum Cases*, 22 Ford. Urb. L.J. 1255 (1995). He received his undergraduate degree, *cum laude*, from the University of Pennsylvania in 1992. Mr. Rudy is licensed to practice law in Pennsylvania and New York. From 1996 to 2002, Mr. Rudy was an Assistant District Attorney in the Manhattan District Attorney's Office, where he prosecuted dozens of felony jury trials to verdict. From 2003 to 2005, Mr. Rudy was an Assistant United States Attorney in the District of New Jersey, where he investigated and prosecuted numerous fraud and violent crime cases, and where he tried several major fraud cases to verdict in federal court. Mr. Rudy co-manages the firm's mergers and acquisition and shareholder derivative litigation department along with Marc Topaz and Eric Zagar.

**KAY E. SICKLES**, a partner of the firm, received her law degree from the University of Pennsylvania School of Law. She received her undergraduate degree from Colgate University, graduating, *with honors*, from the History department. Prior to joining the firm, Ms. Sickles was an associate with Sandals & Langer, LLP, where she litigated complex class actions arising out of violations of the ERISA and antitrust statutes. She is licensed to practice law in Pennsylvania and New Jersey, and has been admitted to practice before the Ninth and Seventh Circuit Courts of Appeal, the United States District Court for the Eastern District of Pennsylvania, and the United States District Court for the District of New Jersey.

Ms. Sickles concentrates her practice in the area of securities litigation and specializes in settlement matters. She has played a lead role in effectuating some of the most significant settlements of securities class action in recent years, including the partial settlement with Tenet Healthcare Corp. and certain officer of that corporation for \$216.5 million in *In re Tenet Healthcare Corp. Sec. Litig.*, No. CV-02-8462-RSWL (Rzx) (C.D. Ca. 2006); the settlement for cash and common stock worth over \$90 million in *In re Interpublic Sec. Litig.*, Civ. 6527 (DLC) (S.D.N.Y. 2004); and the settlements for securities worth over \$133.5 million in *In re Computer Associates Class Action Securities Litigation*, Master File No. 98 Civ. 4839 (TCP) and *In re*

*Computer Associated 2002 Cass Action Securities Litigation*, Master File No., 02-CV-1226 (TCP) (E.D.N.Y.).

**ERIC L. ZAGAR**, a partner of the firm, received his law degree from the University of Michigan Law School, *cum laude*, where he was an Associate Editor of the Michigan Law Review. He has practiced law in Pennsylvania since 1995, and previously served as a law clerk to Justice Sandra Schultz Newman of the Pennsylvania Supreme Court. He is admitted to practice in Pennsylvania.

Mr. Zagar concentrates his practice in the area of shareholder derivative litigation. Mr. Zagar has served as Lead or Co-Lead counsel in numerous derivative actions in courts throughout the nation, including *David v. Wolfen*, Case No. 01- CC-03930 (Orange County, CA) (Broadcom Corp. Derivative Action); *In re PolyMedica Corporation Shareholder Derivative Litigation*, Case No. 01-3446 (Middlesex County, MA); *In Re Dynacq Int'l. Shareholder Derivative Litigation*, Case No. 2002- 07135 (Harris County, TX); and *Castillo v. Cavallaro, et al.*, Case No. A467663 (Clark County, NV) (Station Casinos, Inc. Class and Derivative Action). Mr. Zagar has successfully achieved significant monetary and corporate governance relief for the benefit of shareholders, and has extensive experience litigating matters involving Special Litigation Committees.

## ASSOCIATES AND OTHER PROFESSIONALS

**JULES D. ALBERT**, an associate of the firm, received his J.D. in 2005 from the University of Pennsylvania Law School, where he was a Senior Editor of the University of Pennsylvania Journal of Labor and Employment Law and recipient of the James Wilson Fellowship. Mr. Albert also received a Certificate of Study in Business and Public Policy from The Wharton School at the University of Pennsylvania. Mr. Albert graduated *magna cum laude* with a Bachelor of Arts in Political Science from Emory University. Mr. Albert is licensed to practice law in Pennsylvania, and concentrates his practice in the mergers and acquisitions and stockholder derivative actions department.

**KATIE L. ANDERSON**, an associate of the firm, received her law degree from Widener University School of Law. She received her undergraduate degree from the University of Pittsburgh. Prior to joining Schiffrin Barroway Topaz & Kessler, Ms. Anderson served as a Deputy Attorney General for the Pennsylvania Office of Attorney General, Bureau of Consumer Protection, where she was responsible for enforcing a wide range of consumer oriented laws.

Ms. Anderson is licensed to practice law in Pennsylvania and is admitted to practice in the United States District Court for the Eastern District of Pennsylvania. She concentrates her practice in the area of mass tort litigation.

**IAN D. BERG**, an associate of the firm, received his J.D. and B.A. from Northwestern University. Mr. Berg concentrates his practice in the area of securities litigation and he plays a significant role in investigating and evaluating potential cases, including proprietary claims and

direct actions on behalf of institutional clients. Prior to joining Schiffrin, Barroway, Topaz & Kessler, Mr. Berg primarily practiced in the areas of commercial litigation and land use on behalf of corporations and real estate investment trusts. He is licensed to practice law in Pennsylvania and Illinois.

**ROBERT W. BIELA**, an associate of the firm, received his law degree from the Penn State Dickinson School of Law, where he served on the editorial board of the Environmental Law and Policy Journal. Mr. Biela received his undergraduate degree from West Chester University. Prior to joining the firm, Mr. Biela was an associate at Mager White and Goldstein, LLP. Mr. Biela is licensed to practice law in the Commonwealth of Pennsylvania and the United States District Court for the Eastern District of Pennsylvania. His practice focuses primarily in the area of securities litigation.

**KATHERINE B. BORNSTEIN**, an associate of the firm, received her law degree from Emory University School of Law. Ms. Bornstein received her undergraduate degree from the University of Maryland. She is licensed to practice law in Pennsylvania and Maryland. Prior to joining Schiffrin Barroway Topaz & Kessler, Ms. Bornstein was an associate at Provost & Umphrey Law Firm, LLP, where she worked on a number of complex litigation issues. Ms. Bornstein concentrates her practice at Schiffrin Barroway Topaz & Kessler in the areas of ERISA, antitrust and consumer protection.

**JONATHAN R. CAGAN**, an associate of the firm, received his law degree from the Temple University School of Law. Mr. Cagan received his undergraduate degree, *cum laude*, from Temple University. Mr. Cagan is licensed to practice law in New Jersey, and is admitted to the Third Circuit Court of Appeals. Mr. Cagan concentrates his practice in the area of securities litigation and specializes in discovery matters.

**EDWARD W. CIOLKO**, an associate of the firm, received his law degree from Georgetown University Law Center, and an MBA from the Yale School of Management. Prior to joining the firm, he served as an Attorney Advisor to Commissioner Sheila F. Anthony at the Federal Trade Commission. He is licensed to practice law in the State of New Jersey, and has been admitted to practice before the United States District Court for the District of New Jersey. Mr. Ciolko concentrates his practice in the areas of antitrust, ERISA, and consumer protection.

**ALISON K. CLARK**, an associate of the firm, received her law degree, *cum laude*, from Boston University School of Law, and received her undergraduate degree in Political Science, with honors, from Lehigh University. Prior to joining Schiffrin Barroway Topaz & Kessler, Ms. Clark was an attorney with a Fairfield County, Connecticut law firm, where she practiced in the areas of civil and commercial litigation, and real estate transactions. Ms. Clark is licensed to practice law in Connecticut, and has been admitted to practice before the United States District Court for the District of Connecticut. Ms. Clark concentrates her practice in the mergers and acquisitions and shareholder derivative department.

**MARK S. DANEK**, an associate of the firm, received his undergraduate degree in Architecture from Temple University in 1996, and his law degree from Duquesne University School of Law

in 1999. Prior to joining Schiffрин Barroway Topaz & Kessler, Mr. Danek was employed as in-house counsel of a real estate investment trust corporation that specialized in the collection of delinquent property tax receivables. He is licensed to practice law in the Commonwealth of Pennsylvania and has been admitted to practice before the Courts of the Commonwealth of Pennsylvania, the United States District Court for the Western District of Pennsylvania and the Supreme Court of the United States of America. Mr. Danek concentrates his practice in the area of securities litigation.

**BRADLEY A. DIRKS**, an associate of the firm, received his J.D. from The University of Akron School of Law and a B.A. in Journalism and Political Science, *cum laude*, from the University of Wisconsin. He is a member of the State Bar of New Jersey, and has been admitted to practice before the United States District Court for the District of New Jersey. Prior to joining Schiffрин Barroway Topaz & Kessler, Mr. Dirks worked for an Atlantic City, New Jersey-based law firm where he focused on administrative law and regulatory issues in the casino gaming industry. Mr. Dirks concentrates his practice in the area of shareholder derivative litigation.

**JENNIFER L. ENCK**, an associate of the firm, received her law degree, *cum laude*, from Syracuse University College of Law in 2003 and her undergraduate degree in International Politics from The Pennsylvania State University in 1999. Ms. Enck also received a Masters degree in International Relations from Syracuse University's Maxwell School of Citizenship and Public Affairs. Prior to joining Schiffрин Barroway Topaz & Kessler, Ms. Enck was an associate with Spector, Roseman & Kodroff, P.C. in Philadelphia, where she worked on a number of complex antitrust, securities and consumer protection cases. Ms. Enck is licensed to practice law in Pennsylvania. She concentrates her practice in the areas of securities litigation and settlement matters.

**ROBERT J. GRAY**, an associate of the firm, received his law degree from the Temple University School of Law. Mr. Gray received Bachelor of Sciences degree from La Salle University with a dual major of Accounting and Finance. Prior to joining Schiffрин Barroway Topaz & Kessler, Mr. Gray was an associate at Philadelphia boutique litigation firm practicing in the areas of complex commercial litigation and corporate transactions. Mr. Gray also worked as in-house counsel for a small, publicly-traded holding company.

Prior to beginning his law career, Mr. Gray worked as a forensic accountant for six years, conducting a variety of investigations for numerous governmental agencies and law firms. He received his C.P.A. license in 1997.

Mr. Gray is licensed to practice law in Pennsylvania and New Jersey, and has been admitted to practice before the United States District Court for the Eastern District of Pennsylvania. He concentrates his practice in the area consumer protection.

**JOHN GROSS**, an associate of the firm, received his law degree from Widener School of Law, and his undergraduate degree from Temple University. Mr. Gross is licensed to practice law in Pennsylvania, and has been admitted to practice before the United States District Court for the Eastern District of Pennsylvania. Prior to joining Schiffрин Barroway Topaz & Kessler, Mr. Gross was an insurance defense litigation associate at a large, Philadelphia based firm. Mr. Gross

now concentrates his practice in the areas of securities litigation, antitrust litigation and shareholder derivative actions.

**MARK K. GYANDOH**, an associate of the firm, received his undergraduate degree from Haverford College and his law degree from Temple University School of Law. While attending law school Mr. Gyandoh served as the research editor for the Temple International and Comparative Law Journal. He also interned as a judicial clerk for the Honorable Dolores K. Sloviter of the U.S. Court of Appeals for the Third Circuit and the Honorable Jerome B. Simandle of the U.S. District Court for New Jersey. After law school Mr. Gyandoh was employed as a judicial clerk for the Honorable Dennis Braithwaite of the Superior Court of New Jersey Appellate Division.

Mr. Gyandoh is the author of "Foreign Evidence Gathering: What Obstacles Stand in the Way of Justice?", 15 Temp. Int'l & Comp. L.J. (2001) and "Incorporating the Principle of Co-Equal Branches into the European Constitution: Lessons to Be Learned from the United States" found in Redefining Europe (2005). Mr. Gyandoh is licensed to practice in New Jersey and Pennsylvania and concentrates in the area of ERISA, antitrust and consumer protection.

**BENJAMIN J. HINERFELD** is an associate at the firm, and concentrates his work in securities litigation. In 1996, he graduated from the University of Pittsburgh School of Law, where he served as Lead Note and Comment Editor of the Journal of Law and Commerce. From 1996 to 1997, he clerked for the Hon. Sandra Schultz Newman of the Supreme Court of Pennsylvania. Prior to joining Schiffriin Barroway Topaz & Kessler, Mr. Hinerfeld worked in a securities litigation firm in Wilmington, Delaware.

From 2000 to 2003, Mr. Hinerfeld was a writing consultant with the Undergraduate Writing Center at the University of Texas at Austin. During that time he also co-authored, with Dr. Sarah Jane Rehnborg and Catherine Fallon, "Investing in Volunteerism: The Impact of Service Initiatives in Selected Texas State Agencies" a report prepared by The RGK Center for Philanthropy and Community Service, LBJ School of Public Affairs. He received his bachelor's degree from Vassar College and a master's degree in American History from the University of Texas at Austin.

Mr. Hinerfeld is licensed to practice law in Pennsylvania.

**MICHAEL J. HYNES**, an associate of the firm, received his law degree from Temple University School of Law, and is a graduate of Franklin and Marshall College. Mr. Hynes is licensed to practice law in Pennsylvania, New Jersey and Montana, and has been admitted to practice in the United States Court of Appeals for the Ninth Circuit, and the United States District Courts for the Eastern and Middle Districts of Pennsylvania. Prior to joining Schiffriin Barroway Topaz & Kessler, Mr. Hynes practiced law at Cozen O'Connor, where he concentrated on bankruptcy and commercial litigation. He was an attorney with the Defenders' Association of Philadelphia from 1991 to 1996, where he defended thousands of misdemeanor and felony cases. At Schiffriin Barroway Topaz & Kessler, Mr. Hynes concentrates his practice in the areas of securities litigation and shareholder derivative litigation.

**TARA P. KAO**, an associate of the firm, received her J.D. from Villanova University School of Law, where she was a Managing Editor of Student Works for the Villanova Law Review. Ms. Kao received her Bachelor of Science in Business/Finance, *with honors*, from Carnegie Mellon University. She is licensed to practice law in Pennsylvania, and concentrates her practice in the area of mergers and acquisitions and shareholder derivative actions.

**D. SEAMUS KASKELA**, an associate of the firm, received his law degree from Rutgers School of Law – Camden, and received his undergraduate degree in Sociology from Saint Joseph's University. Prior to graduating from law school and joining Schiffriin Barroway Topaz & Kessler, LLP, Mr. Kaskela was a law clerk with a large Philadelphia law firm, where he worked in the complex civil litigation department. Mr. Kaskela is licensed to practice law in Pennsylvania and New Jersey, and has been admitted to practice before the United States District Court for the Eastern District of Pennsylvania (pending) and the United States District Court for the District of New Jersey. Mr. Kaskela works in the firm's case development department

**JENNIFER L. KEENEY**, an associate of the firm, received her law degree, *cum laude*, from Temple University Beasley School of Law, where she was the Special Projects Editor for the Temple International and Comparative Law Journal. Ms. Keeney earned her undergraduate degree in History, *with honors*, from Washington University in St. Louis in 2003. She is licensed to practice in Pennsylvania and concentrates her practice at Schiffriin Barroway Topaz & Kessler in the area of securities litigation.

**HAL J. KLEINMAN**, an associate of the firm, received his law degree from The John Marshall Law School, and his undergraduate degree from Ithaca College. Mr. Kleinman is licensed in Illinois and Pennsylvania, and has been admitted to practice before the United States District Court for the Northern District of Illinois, the United States District Court for the Eastern District of Pennsylvania, the Court of Appeals for the Seventh Circuit, the Court of Appeals for the Third Circuit, and the United States Court of Claims.

Prior to joining Schiffriin Barroway Topaz & Kessler, Mr. Kleinman practiced law in Chicago, where his practice concentrated in the area of Complex Litigation, Mass Torts and Class Actions. Mr. Kleinman was a member of the law and briefing committee that successfully obtained class certification in *In re Hartmarx Securities Litigation, Case No. 01 C 7832 (N.D. Ill.)*. In addition, he was appointed to the Class Counsel Management Committee in *Cress, et al. v. Sara Lee Corporation, Case No. 98 L 15072 (Cir. Ct., Cook County, Ill.)*. For his work in this matter, Mr. Kleinman was asked to be a guest lecturer at the University of Chicago Law School's Class Action Controversies Seminar and to discuss the Sara Lee litigation. He also was responsible for representing hundreds of clients in various Mass Torts, including MDL-1431, *In re Baycol Products Liability Litigation; MDL-1373, In re Bridgestone/Firestone, Inc. ATX, ATX II and Wilderness Tires Products Liability Litigation; MDL-1203, In re Diet Drugs (Phentermine/Fenfluramine/Dexfenfluramine) Products Liability Litigation; and MDL-926, In re Silicone Gel Breast Implants Product Liability Litigation*. Mr. Kleinman concentrates his practice in the area of Mass Torts.

**ERIC LECHTZIN**, an associate of the firm, received his law degree from the Temple University School of Law. Mr. Lechtzin received his undergraduate degree in Political Science

and Economics, *magna cum laude*, from Temple University, where he received Phi Beta Kappa honors. Mr. Lechtzin is licensed to practice law in Pennsylvania and New Jersey, and has been admitted to practice before the United States District Courts for the Eastern District of Pennsylvania and the District of New Jersey.

Prior to joining Schiffрин Barroway Topaz & Kessler, Mr. Lechtzin was an associate with the firm of Grant & Eisenhofer, P.A., where his practice was concentrated in federal securities class actions and corporate governance litigation. Mr. Lechtzin spent the first ten years of his career at two large Philadelphia law firms where he represented corporate and public sector clients in a wide range of complex commercial litigation, including toxic torts, labor and employment, insurance, and environmental law. Mr. Lechtzin has extensive trial experience and has argued appeals before the Supreme Court of Pennsylvania and other appellate courts. Mr. Lechtzin concentrates his practice with Schiffрин Barroway Topaz & Kessler in the area of securities class action litigation and is Lead or Co-Lead Counsel in several class action securities cases currently pending nationwide. In addition, Mr. Lechtzin has been actively involved in a number of federal securities cases in which outstanding results were achieved, including the following: *In re Global Crossing Access Charge Litigation*, No. 04-MD-1630 (S.D.N.Y.), in which Schiffрин Barroway Topaz & Kessler served as Co-Lead Counsel on behalf of plaintiffs and helped obtain a settlement of \$15 million from the company; *In re Van der Moolen Holding N.V. Securities Litigation*, No. 1:03-CV-8284 (S.N.D.Y.), in which Schiffрин Barroway Topaz & Kessler served as Co-Lead Counsel on behalf of plaintiffs and helped obtain a settlement of \$8 million from the company; and *Scott Tanne v. Autobytel, Inc. et al.*, No. CV 04-8987 (C.D. Cal.), in which Schiffрин Barroway Topaz & Kessler served as sole Lead Counsel on behalf of plaintiffs and obtained a settlement of \$6.75 million from the company.

**JAMES A. MARO, JR.**, an associate of the firm, received his law degree from the Villanova University School of Law in 2000. He received a B.A. in Political Science from the Johns Hopkins University in 1997. Mr. Maro is licensed to practice law in Pennsylvania and New Jersey and is admitted to practice in the United States District Court for the Eastern District of Pennsylvania. He concentrates his practice in the area of mergers and acquisitions and shareholder derivative actions.

**RICHARD A. MANISKAS**, an associate of the firm, received his law degree from Widener University School of Law, and received his undergraduate degree from the University of Pittsburgh. While in law school, Mr. Maniskas served as Internal Editor of the *Widener Journal of Public Law*. He is licensed to practice law in Pennsylvania and the District of Columbia, and has been admitted to practice before the United States District Court for the Eastern District of Pennsylvania. Mr. Maniskas works in the firm's case development department.

**LISA MELLAS**, an associate of the firm, received her law degree from the University of Florida College of Law and her undergraduate degree from the University of Florida. Prior to joining Schiffрин Barroway Topaz & Kessler, LLP, Ms. Mellas was an associate at White and Williams, LLP, where she practiced in the Property Department. Ms. Mellas is licensed to practice in New York, New Jersey and Pennsylvania, and has been admitted to practice before the United States District Court for the Eastern District of Pennsylvania, the Western District of

Pennsylvania, and the District of New Jersey. She concentrates her practice at Schiffrin Barroway Topaz and Kessler in the area of consumer protection and ERISA

**JAMES H. MILLER**, an associate of the firm, received his J.D. in 2005 from Villanova University School of Law, where he was enrolled in Villanova University's J.D./M.B.A. program. Mr. Miller received his Master of Business Administration from Villanova University in 2005, and received his Bachelor of Chemical Engineering from Villanova University in 2002. Mr. Miller is licensed to practice law in Pennsylvania and concentrates his practice in the areas of mergers and acquisitions and shareholder derivative actions.

**CASANDRA A. MURPHY**, an associate of the firm, received her law degree from Widener University School of Law and her undergraduate from Gettysburg College. Prior to joining Schiffrin Barroway Topaz & Kessler, LLP, Ms. Murphy was an associate at Post & Schell, P.C. where she practiced general casualty litigation. Ms. Murphy is licensed to practice in Pennsylvania and New Jersey, and has been admitted to practice before the United States District Court for the Eastern District of Pennsylvania. Ms. Murphy has lectured for the Pennsylvania Bar Institute and the Philadelphia Judicial Conference. She concentrates her practice at Schiffrin Barroway Topaz & Kessler in the areas of consumer protection, ERISA, pharmaceutical pricing and antitrust.

**CHRISTOPHER L. NELSON**, an associate of the firm, received his law degree from Duke University School of Law, and his undergraduate degree in Business, Economics, and the Law from Washington University in St. Louis. Prior to joining Schiffrin Barroway Topaz & Kessler, Mr. Nelson practiced with the Philadelphia law firm of Berger & Montague, P.C., where he was a securities litigator.

Mr. Nelson is admitted to practice law in the Commonwealth of Pennsylvania, the Supreme Court of the United States, the United States Court of Appeals for the Fourth, Fifth and Ninth Circuits, and the United States District Court for the Eastern District of Pennsylvania.

Mr. Nelson concentrates his practice in the area of securities litigation, and is Lead or Co-Lead Counsel in numerous pending nationwide class action securities cases.

**MICHELLE M. NEWCOMER**, an associate of the firm, received her law degree from Villanova University School of Law. Ms. Newcomer received her undergraduate degrees in Finance and Art History from Loyola College in Maryland in 2002. Ms. Newcomer is licensed to practice law in Pennsylvania and New Jersey. She concentrates her practice at Schiffrin Barroway Topaz & Kessler in the area of securities litigation.

**KAREN E. REILLY**, an associate of the firm, received her law degree from Pace University School of Law, where she was a member of the Moot Court Board and National Moot Court Team. Ms. Reilly received her undergraduate degree from the State University of New York College at Purchase. She is licensed to practice law in Pennsylvania, New Jersey, New York, Connecticut and Rhode Island, and has been admitted to practice before the United States District Courts for the Eastern District of Pennsylvania, District of New Jersey, Southern and Eastern Districts of New York, and the District of Connecticut. Prior to joining Schiffrin

Barroway Topaz & Kessler, Ms. Reilly practiced at Pelino & Lentz, P.C., in Philadelphia, where she litigated a broad range of complex commercial cases. Ms. Reilly concentrates her practice in the area of securities litigation.

**STEVEN D. RESNICK**, an associate of the firm, received his law degree from The Dickinson School of Law of The Pennsylvania State University, and his undergraduate degree, *cum laude*, from West Chester University. Mr. Resnick is licensed to practice law in Pennsylvania and New Jersey, and has been admitted to practice before the United States District Court for the Eastern District of Pennsylvania, the United States Court of Appeals for the Third Circuit, the United States District Court for the District of New Jersey and the United States District Court for the District of Nebraska. Prior to joining Schiffрин Barroway Topaz & Kessler, Mr. Resnick was an associate at the firm of German, Gallagher & Murtagh, where his practice concentrated in the defense of medical malpractice, products liability and premises liability. Mr. Resnick now concentrates his practice in the area of mass tort and product liability litigation.

**EMANUEL SHACHMUROVE**, an associate of the firm, received his law degree from The University of Michigan Law School, where he was an Associate Editor of the Michigan Journal of Law Reform. Mr. Shachmurove received his Bachelor of Science in Economics, *cum laude*, from The Wharton School at the University of Pennsylvania, where he was a Joseph Wharton Scholar. Mr. Shachmurove concentrates his practice in mergers and acquisitions and shareholder derivative litigation.

**BHARATI O. SHARMA**, an associate of the firm, received her law degree from the American University Washington College of Law, a Master of Public Administration from The George Washington University, and her undergraduate degree from the University of Pittsburgh. Ms. Sharma is licensed to practice law in Pennsylvania and New Jersey, and has been admitted to practice before the United States District Court for the District of New Jersey.

Ms. Sharma is a former judicial law clerk to the Honorable Stephen Skillman, Superior Court of New Jersey, Appellate Division, and a former member of American University's International Law Review. She is the founder and current President of the South Asian Bar Association of Philadelphia. Ms. Sharma also serves on the Executive Committees of the North American South Asian Bar Association and the Philadelphia Bar Association Young Lawyer's Division.

Prior to joining Schiffrin Barroway Topaz & Kessler, Ms. Sharma practiced complex civil litigation at a Philadelphia law firm. She now concentrates her practice in the areas of pharmaceutical and product liability litigation.

**BENJAMIN J. SWEET**, an associate of the firm, received his juris doctor from The Dickinson School of Law, and his BA, *cum laude*, from the University Scholars Program of The Pennsylvania State University. While in law school, Mr. Sweet served as Articles Editor of the Dickinson Law Review, and was also awarded Best Oral Advocate in the ATLA Junior Mock Trial Competition. Prior to joining Schiffrin Barroway Topaz & Kessler, Mr. Sweet practiced in the Pittsburgh office of Reed Smith LLP, where he specialized in complex civil litigation. While at Reed Smith, Mr. Sweet co-authored "Assignability of Non-Compete Covenants," 74 Pa. Bar. Q. 64 (April 2003). Mr. Sweet is licensed to practice law in the Commonwealth of Pennsylvania,

the United States District Court for the Western District of Pennsylvania and the United States Court of Appeals for the Ninth Circuit.

Mr. Sweet concentrates his practice in the area of securities litigation and has helped obtain several multi-million dollar settlements on behalf of class members in several nationwide federal securities class actions, including *In re CVS Pharmacy, Inc. Secs. Litig.*, No. 01-11464 (D.Mass. 2005) (\$110 million recovery for Class members), *In re Zomax Inc. Secs. Litig.*, No. 04-cv-1155 (D.Minn. 2005) (multi-million dollar cash and stock recovery for Class members), *In re Flextronics Int'l Ltd. Secs. Litig.*, No. 03-cv-2102 (N.D. Cal. 2004) (\$4.25 million recovery for Class members) and *In re Black Box Corp. Secs. Litig.*, No. 03-cv-412 (W.D. Pa. 2004) (multi-million dollar recovery for Class Members). Mr. Sweet is currently Lead or Co-Lead Counsel in several pending nationwide class action securities cases, including *In re Tyco Int'l Ltd. Secs. Litig.*, MDL Docket No. 02-1335-B (D.N.H.) and *In re PNC Financial Services Group, Inc. Secs. Litig.*, No. 02cv271 (W.D. Pa.).

**NICOLETTE TROPIANO**, an associate of the firm, received her law degree from Temple University School of Law. Ms. Tropiano received her undergraduate degree in Economics and Business Administration with a concentration in Accounting and Finance from Ursinus College in 2001. Ms. Tropiano is licensed to practice law in Pennsylvania. She concentrates her practice in the area of securities litigation, and serves in the firm's lead plaintiff department which involves working with clients, litigation strategy and lead plaintiff issues.

**MICHAEL C. WAGNER**, is an associate of the firm, received his undergraduate degree in Government from Franklin & Marshall College, and his law degree from the University of Pittsburgh School of Law in 1996. Mr. Wagner is licensed to practice law in Pennsylvania, and he has been admitted to practice in the United States Court of Appeals for the Third Circuit, and United States District Courts for the Eastern and Western Districts of Pennsylvania, for the Eastern District of Michigan, and for the District of Colorado.

Before joining Schiffriin Barroway Topaz & Kessler, Mr. Wagner worked at Rubin, Fortunato & Harbison, a boutique law firm in Paoli, PA, representing Fortune 100 corporations, as well as individuals and small businesses, in employment matters across the country. Mr. Wagner earlier worked for several years at Spector, Gadon & Rosen, in Philadelphia, concentrating his practice in complex commercial and corporate litigation. At Schiffriin Barroway Topaz & Kessler, Mr. Wagner focuses his practice in the areas of securities litigation and shareholder derivative litigation.

**JOSEPH A. WEEDEN**, an associate of the firm, received his law degree from the University of North Carolina School of Law, where he received the Gressman-Politt Award for outstanding oral advocacy. Mr. Weeden also received his undergraduate degree from the University of North Carolina at Chapel Hill, where he was a Joseph E. Pogue Scholar. Prior to joining the firm, Mr. Weeden was an associate at Kaufman & Canoles, P.C., where he practiced in the areas of commercial and business law. Mr. Weeden is licensed to practice law in Virginia, and concentrates his practice in the area of complex ERISA litigation.

**GERALD D. WELLS, III**, an associate of the firm, received his law degree from Temple University School of Law, where he served on the editorial board of the Environment Law &

Technology Journal. He is licensed to practice in Pennsylvania and New Jersey and has been admitted to practice before the United States District Court for the Eastern District of Pennsylvania, the United States District Court for the District Court of New Jersey, and the United States District Court for the Eastern District of Michigan.

Mr. Wells concentrates his practice in the areas of antitrust, ERISA, and consumer protection, and FLSA/overtime litigation and has helped obtain several multi-million dollar settlements on behalf of class members, including the recent settlements in *In re Bristol-Myers Squibb ERISA Litigation*, No. 02-CV-10129 (LAP) (\$41.22 million in cash plus structural remedies valued at up to \$52 million) and *Falk v. Amerada Hess Corp., et al.*, No. 03-CV-2491-FSH-PS (\$2.25 million in cash plus structural remedies valued at up to \$23.8 million); and *In re Westar Energy Inc. ERISA Litig.*, No. 03-4032-JAR (D. Kan.) (\$9.25 million cash settlement). Mr. Wells currently serves as counsel in several pending nationwide class and collective actions.

**ROBIN WINCHESTER**, an associate of the firm, received her law degree from Villanova University School of Law, and received her undergraduate degree in Finance from St. Joseph's University. Prior to joining Schiffren Barroway Topaz & Kessler, Ms. Winchester served as a law clerk to the Honorable Robert F. Kelly in the United States District Court for the Eastern District of Pennsylvania. Ms. Winchester is licensed to practice law in Pennsylvania and New Jersey, and has been admitted to practice before the United States District Court for the Eastern District of Pennsylvania. She concentrates her practice in the area of shareholder derivative actions.

**TERENCE S. ZIEGLER**, an associate of the firm, received his law degree from the Tulane University School of Law. Mr. Ziegler received a Bachelor of Business Administration degree with a concentration in Finance from Loyola University. Mr. Ziegler is licensed to practice law in the State of Louisiana, and has been admitted to practice before the United States Court of Appeals for the Fifth Circuit, the United States District Court for the Eastern District of Louisiana and the United States District Court for the Middle District of Louisiana. Mr. Ziegler concentrates his practice in the areas of consumer protection, ERISA, pharmaceutical pricing and antitrust.

## **OF COUNSEL**

**CHRISTIE A. CANNON**, of counsel to the firm, received her law degree from Emory University School of Law and her undergraduate degree from Auburn University, *magna cum laude*. In law school Ms. Cannon was named to the Order of the Barristers, was one of twelve people from her class chosen to be on the Moot Court Special Teams, and served as the Director of Special Teams on the Moot Court Board of Directors. Ms. Cannon also served as one of three team members for the Georgia Intrastate Moot Court competition and as an alternate member for the National Moot Court Team.

Ms. Cannon has spent her legal career representing both plaintiffs and defendants in complex litigation around the United States and overseas, with a prominent emphasis on securities

litigation under federal and state securities laws. Ms. Cannon is licensed to practice law in Georgia and has been admitted to practice before the Eleventh Circuit Court of Appeals, the United States District Court for the Northern District of Georgia, and all Georgia trial and appellate courts. In 2005, Ms. Cannon was voted by her peers and named by *Atlanta Magazine* and *Law and Politics Magazine* to be a Georgia Super Lawyer, placing her in the top 5 percent of attorneys and among the top 15 securities litigation attorneys in Georgia.

Ms. Cannon is working extensively with partner David Kessler on *In re Initial Public Offering Securities Litigation*, Master File No. 21 MC 92 (SAS) (S.D.N.Y. Dec. 12, 2002), currently pending in the Southern District of New York.

**ROBERT M. BRAMSON** has more than twenty-five years of experience in the litigation of antitrust and consumer cases, class actions and other complex litigation. Mr. Bramson received his undergraduate degree in economics, *summa cum laude*, from the University of California at Berkeley in 1977, and obtained his law degree from the Boalt Hall School of Law in 1981. Mr. Bramson is a member of the California Bar.

Mr. Bramson has represented both plaintiffs and defendants in numerous antitrust cases, and has acted as lead counsel in two such actions taken to trial - *Pacific West Cable Co. v. City of Sacramento, et al.* (E.D. Cal.) (\$12 Million settlement on 24th day of trial, at close of plaintiff's case; Sherman Act §2 monopolization claims) and *Coleman et al. v. Sacramento Cable Television* (Sacramento Sup. Ct.) (\$2.4 Million judgment after 17-day trial; class action/B & P §17200 case; B & P §17204 discriminatory pricing claims).

Mr. Bramson specializes in antitrust, business torts and communications litigation, as well as in class action cases. He served for many years on the Board of Directors of the National Association of Consumer Advocates and co-chaired its class action committee. He is a contributing author to the National Consumer Law Center's publication *Consumer Class Actions*. He acted as reporter for the National Association of Consumer Advocates in preparing its influential *Standards and Guidelines For Consumer Class Actions*, 176 F.R.D. 375 (1997).

Mr. Bramson's lecture topics have included "Strategic and Ethical Issues in Litigating 17200 Cases" (Bar Association of San Francisco, San Francisco 2001), "Equitable Remedies In Class Actions and Under California's Section 17200 Statute" (National Association of Consumer Advocates, Chicago 2000), "Ethical Issues Arising in Class Action Settlements" (National Consumer Law Center, Wash. DC and San Diego 1999 and 1998) "California's Business & Professions Code Section 17200" (California Bar Association, Lake Tahoe 1997), "Preparation of Competitive Business Practices Cases" (Continuing Education of the Bar, Sacramento 1997), and "The Cable Communications Policy Act of 1984" (California State University, Fullerton 1993).

In addition to serving as Of Counsel to Schiffrin Barroway Topaz & Kessler, Mr. Bramson is a partner in the law firm of Bramson, Plutzik, Mahler & Birkhaeuser, LLP, of Walnut Creek, California.

**ALAN R. PLUTZIK** specializes in complex business litigation in state and federal courts throughout the United States. Areas of particular emphasis include class actions, securities fraud and corporate governance litigation, consumer law, antitrust, constitutional and communications law. Mr. Plutzik is admitted to practice in California and the District of Columbia (inactive member), and is a member of the bars of the United States Supreme Court, the Second, Eighth, Ninth, Tenth and District of Columbia Circuits and numerous federal district courts throughout the United States.

Mr. Plutzik received his law degree from the University of California at Berkeley's Boalt Hall School of Law in 1977. He received his undergraduate degree from St. John's College, Annapolis, Maryland, in 1971, and also holds an M. A. from Stanford University. Over the course of his twenty-nine year career, Mr. Plutzik has also handled a wide variety of class actions and derivative cases. He has represented, among other clients, corporate shareholders and limited partners challenging conduct by their general partners, officers or directors; consumers and businesses harmed by price-fixing and other anticompetitive conduct; consumers in actions against insurance companies, banks and other lenders; investors in securities fraud cases and derivative suits; employees in ERISA and wage/hour cases; purchasers of mislabeled and defective products; victims of toxic pollution; persons harmed by defective products; and cellular telephone and cable television subscribers.

Mr. Plutzik has also handled a substantial number of cases that raise First Amendment and other constitutional issues, and has represented broadcasters, cable television companies, communications common carriers and consumers in litigation and in administrative proceedings before the Federal Communications Commission and the California Public Utilities Commission.

Mr. Plutzik has written or lectured on topics that include class actions, California consumer law, substantive and procedural issues under the federal securities laws, First Amendment issues applicable to new media, cable television franchising and cable television companies' access to utility poles and real estate developments. He has appeared as a guest radio commentator on the Len Tillem Show on KGO-Radio in San Francisco, discussing class actions, consumer protection law and investor rights.

Mr. Plutzik has served as a judge pro tem on the Contra Costa County Superior Court. He is also President of the Warren W. Eukel Teacher Trust, a community-based charity that honors outstanding teachers in Contra Costa County, California.

In addition to serving as Of Counsel to Schiffrin Barroway Topaz & Kessler, Mr. Plutzik is a partner in the law firm of Bramson, Plutzik, Mahler & Birkhaeuser, LLP, of Walnut Creek, California.

**L. TIMOTHY FISHER** specializes in consumer and securities class actions and complex business litigation. He has been actively involved in several cases in which multi-million dollar

recoveries were achieved for consumers and investors. Mr. Fisher has handled cases involving a wide range of issues including nutritional labeling, health care, telecommunications, corporate governance, unfair business practices and fraud. Mr. Fisher is a member of the California Bar.

Mr. Fisher received his Juris Doctorate from Boalt Hall at the University of California at Berkeley in 1997. While in law school, he was an active member of the Moot Court Board and participated in moot court competitions throughout the United States. In 1994, Mr. Fisher received an award for Best Oral Argument in the first year moot court competition.

In 1992, Mr. Fisher graduated with highest honors from the University of California at Berkeley and received a degree in political science. Prior to graduation, he authored an honors thesis for Professor Bruce Cain entitled "The Role of Minorities on the Los Angeles City Council." He is also a member of Phi Beta Kappa.

In addition to serving as Of Counsel to Schiffren Barroway Topaz & Kessler, Mr. Fisher is an associate in the law firm of Bramson, Plutzik, Mahler & Birkhaeuser, LLP, of Walnut Creek, California.

## CONSULTANTS

**KEVIN P. CAULEY** serves in the firm's business development and institutional relations department. Mr. Cauley is a graduate of Temple University. Prior to joining the firm, Mr. Cauley was Director of Business Development for a multi-family office in New York City. Mr. Cauley also has prior experience in institutional fiduciary investment consulting, money manager selection, best trade executions, and asset allocation modeling. He has held the Series 7, 24, 63, and 65 licenses with the NASD. Mr. Cauley has also done political consulting in coordinating and directing various aspects of field operations for local, state, and national campaigns in Southeastern Pennsylvania. He is also an active member of The Pennsylvania Future Fund, A.O.H. Division 88 "Officer Danny Boyle Chapter," The Saint Andrews Society, The Friendly Sons of Saint Patrick, The Clover Club of Philadelphia, The Foreign Policy Research Institute, a Board Member of The Princeton Committee on Foreign Relations, and is an elected member to The Pennsylvania Society and The Union League of Philadelphia, where he serves on the Armed Services Committee.

**DAVID RABBINER** serves as Schiffren Barroway Topaz & Kessler's Director of Investigative Services. As the firm's lead investigations necessary to further and strengthen the firm's class-action litigation efforts. Although his investigative services are primarily devoted to securities matters, Mr. Rabbiner routinely provides litigation support, conducts due diligence, and lends general investigative expertise and assistance to the firm's other class-action practice areas. Mr. Rabbiner plays an integral role on the firm's legal team, providing critical investigative services to obtain evidence and information to help ensure a successful litigation outcome. Before joining Schiffren Barroway Topaz & Kessler, Mr. Rabbiner enjoyed a broad-based, successful career as an FBI Special Agent, including service as an Assistant Special Agent in Charge, overseeing multiple criminal programs, in one of the Bureau's largest field offices. He holds an A.B. in English Language and Literature from the University of Michigan and a Juris Doctor from the University of Miami School of Law.

**SKIP HETTEL**, an investigator for the firm, received his undergraduate degree in Political Science from Syracuse University. Prior to joining Schiffren Barroway Topaz & Kessler, Mr. Hettel was a paralegal for Miller, Alfano & Raspanti, P.C., where he worked on white-collar criminal defense and in the Special Master's office for Fen-Phen litigation. Previously, he served on the Jim Eisenhower for Attorney General Campaign.

# EXHIBIT C

## CLAXTON & HILL, PLLC

**Roger F. Claxton.** Mr. Claxton was admitted to the State Bar of Texas in 1980. He practiced law with Kilgore & Kilgore, Inc. from 1980 through 1998, when he and Mr. Hill formed Claxton & Hill, PLLC. He holds a Bachelor's degree in Geology, and a J.D. degree, from Southern Methodist University. His practice emphasizes business and commercial litigation, including numerous class action cases in both state and federal courts, and he has had extensive experience in the management and prosecution of complex litigation. Mr. Claxton is "AV" in Martindale-Hubbell.

**Robert J. Hill.** Mr. Hill was admitted to the State Bar of Texas in 1990. He practiced law with Kilgore & Kilgore, Inc. from 1990 through 1998, when he and Mr. Claxton formed Claxton & Hill, PLLC. He holds a B.B.A. degree in Finance from the University of Texas and a J.D. degree from Texas Tech University School of Law. His practice is primarily litigation, with substantial experience in class action cases involving securities fraud in both state and federal courts. Mr. Hill is "AV" in Martindale-Hubbell.

Our litigation practice and experience covers a wide range of areas, on both the plaintiff and defense sides, including securities fraud, real estate, commercial contracts and transactions, intellectual property and theft of trade secrets, toxic torts, oil and gas, common law and statutory fraud, breach of fiduciary duty, consumer fraud and deception, wrongful death and negligence, insurance coverage and subrogation and many class action cases. It includes trials in state and federal courts and appeals to the state and federal appellate courts. As examples of the breadth of our experience beyond class actions (discussed below), we have litigated cases in the following areas:

- Successful defense, through trial, of claims of fraud, conspiracy and breach of fiduciary duty in an international export business.
- Successful defense of complex, multi-party mass toxic tort claims involving a Superfund site and claims of surface and groundwater contamination.
- Pursuit and defense of numerous cases involving claims for misappropriation of intellectual property including website concept, design and appearance, trade names, trade dress and trade secrets and other proprietary information.

- Successful defense of claims of theft of trade secrets, conspiracy and RICO violations involving semiconductor manufacturing equipment and design information.
- Recovery of substantial sums in numerous cases involving fraud and misrepresentation in lending transactions, oil and gas transactions, falsification of records and Ponzi schemes.
- Successful pursuit of several claims for employee theft, embezzlement, forgery and dishonesty, including trial of non-dischargeability in bankruptcy. Disloyal employees of more than one of our clients are serving, or have served, prison terms for stealing from our clients.
- Successful litigation of claims of fraud, misrepresentation, breach of fiduciary duty, partnership disputes and attorney misconduct involving substantial note secured by downtown Dallas hotel.
- Successful defense, through trial, of wrongful death lawsuit for manufacturing defects, involving death of parents leaving behind several orphans.
- Successful defense of insurer in bad faith insurance practices claim involving accidental shooting.
- Trial of wrongful death claim (murder) based on inadequate security.
- Successful pursuit and litigation of claims against major telephone company for breach of contract for information technology services.
- Successful defense of bank president on claims of defalcation and dishonesty and successful pursuit of his counterclaims for defamation and other damages.
- Successful litigation of claims for breach of unusual insurance policies insuring against major losses in oil well drilling and completion activities, involving collecting from foreign insurer in Lloyds of London syndicates and discovery in the United States, England and Australia.
- Successful litigation of numerous oil and gas cases, including claims for both cancellation and enforcement of oil and gas leases, oil and gas ownership disputes, drilling contract disputes, disputes involving gas purchase contracts, “take or pay” provisions and injunctions.
- Pursuit of claims and defense of claims involving construction disputes, both commercial and residential.

- Successful litigation and trial of claims involving commercial real estate and leases, including injunctions to prevent waste, disposal and hiding of collateral.
- Successful litigation of numerous cases involving non-compete, non-solicitation and non-disclosure agreements and related injunctions.
- Securities arbitrations involving claims against brokers and dealers

Our practice and experience also includes extensive securities litigation and many class actions. We have participated and actively assisted in these and other class action securities and consumer cases:

*In re LTV Securities Litigation*, 88 FRD 134, 150 (N.D.Tex. 1980) (in which Mr. Claxton was instrumental in the damages analysis and proof, using, in this early class action securities case, statistical analysis now considered fundamental in such cases, and devising a computer program to estimate the damages, correcting for “ins and outs,” in a case involving several different debt and equity securities)

*Walton v. American Express Company*, Cause No. 92-9181-A (14<sup>th</sup> Judicial District, Dallas County, Texas). Messrs. Claxton and Hill, along with their New York co-counsel, successfully brought suit on behalf of a nationwide class for invasion of privacy and misuse of personal information. After extensive, difficult discovery, we obtained certification (under T.R.C.P. 42) of a class consisting of **39 million** then current and former American Express cardholders. Certification of the class was upheld on appeal, and after remand and further discovery demonstrating how the class could be efficiently notified, the case was settled. To our knowledge, this is the largest class ever certified by a Texas court.

*Stern, et al. v. Jerome, et al.*, Civil Action No. 3:94-CV-2236 (N.D. Tex) and *Fisher Bond Fund v. Marvin Davis, et al.*, Civil Action No. 3:95-CV-1204-D (N.D. Tex) (class action securities case in which a cash settlement in the total amount of \$28,200,000 was reached)

*Tidel Securities Litigation*, 220 F.R.D. 491 (S.D. Tex. 2004) (class action securities case settled shortly before trial, after all pretrial materials were filed, and after certification which followed three day evidentiary hearing before Judge Hittner, with Mr. Claxton principally responsible for the core issue of market efficiency and presentation and cross examination of experts at the class certification hearing).

*Texas Instruments, Inc. Securities Litigation* in Judge Sanders' Court (class action securities case in which a \$12 million settlement fund was obtained for the plaintiff class)

*Dr. Pepper/Seven Up Securities Litigation* (N.D. Tex.)(class action securities case involving failure to disclose existence of acquisition talks; settled before trial)

*Stevens Graphics, Inc. Securities Litigation* (N.D. Tex.)(class action securities case which settled shortly before trial, with Messrs. Claxton and Hill principally responsible for trial preparation)

*Neidich v. Geodyne Resources, Inc.*, Cause No. 94-052860 (127<sup>th</sup> Judicial District, Harris County, Texas). Messrs. Claxton and Hill were Texas counsel for a group of plaintiffs asserting, on behalf of a nationwide class of investors, various state law claims arising out of publicly traded limited partnership interests. The case was coordinated with a later-filed case in the United States District Court for the Southern District of New York and a class was certified under T.R.C.P. 42. Messrs. Claxton and Hill worked closely with a committee of plaintiffs' counsel and provided assistance with the substantive oil and gas issues as well as assisting with discovery and trial preparation. The cases were ultimately settled for \$125 million.

*Delta Drilling Company Securities Litigation* (class action securities case in which a settlement was approved by Judge Fish)

*Southland Corporation Securities Litigation* (class action securities case in which a settlement was reached with a value in excess of \$20 million)

*Finkel v. Docutel/Olivetti Corporation et al.* (in which a settlement was approved by Judge Maloney, which was argued before the Fifth Circuit, in which the fraud on the market doctrine was adopted by the Fifth Circuit, and which was appealed to the United States Supreme Court and considered by the Supreme Court in connection with its decision recognizing the fraud on the market doctrine)

*Teichler v. DSC Communications Corp.* (class action securities case in which a \$30 million settlement was approved by Judge Maloney)

*International Telecharge, Inc. Securities Litigation* (class action securities case resulting in a settlement approved by Judge Cummings)

*Loran v. Furr's Bishop's, Inc.* (class action securities case in which Mr. Claxton was the lead counsel and in which a settlement was approved by Judge Solis)

*Convex Computer Corp. Securities Litigation* (N.D. Tex.)(class action securities case; settlement approved)

*Stewart & Stevenson Securities Litigation* (S.D. Tex.)(class action securities case; settlement approved)

*ProNet, Inc. Securities Litigation* (N.D. Tex. and Dallas County District Court)(proceedings coordinated and settlements approved)

*Hinerfeld v. Physicians Reliance Network, Inc.*, Cause No. 96-09903-A (14<sup>th</sup> Judicial District Court, Dallas County, Texas)(Messrs. Claxton and Hill were lead Texas counsel for plaintiffs asserting violations of the Texas Securities Act. Case was settled along with a companion case in the United States District Court for the Northern District of Texas).

*FirstPlus Securities Litigation* (N.D. Tex.)(class action securities case; settlement approved)

*CPS Systems Securities Litigation* (N.D. Tex.)(class action securities case; settlement approved)

*Virbac Securities Litigation* (N.D. Tex., Fort Worth Division)(class action securities case; settlement approved by Judge Means)

*Churchill v. Sage U.S. Holdings, Inc.*, Cause No. 99-05864-F (116<sup>th</sup> Judicial District, Dallas County, Texas). Messrs. Claxton and Hill were Texas counsel in this consumer class action alleging defective computer software. A nationwide class of purchasers was certified under T.R.C.P. 42 and class members were compensated in a settlement.

*Schwartz v. Compaq Computer Corp.*, Cause No. 97-55962 (295<sup>th</sup> Judicial District, Harris County, Texas). Messrs Claxton and Hill were Texas counsel in this consumer class action alleging certain defects in computers. A nationwide class was certified under T.R.C.P 42 and compensated in a settlement.

*Clarkson v. Greyhound Lines, Inc.*, Cause No. 96-11329-C (68<sup>th</sup> Judicial District Court, Dallas County, Texas). Messrs. Claxton and Hill were Texas counsel, principally responsible for this class action which asserted non-removable claims for violation of certain federal securities laws. A nationwide class was certified under T.R.C.P. 42 and compensated in a settlement.

*PLA, Llc v. Advanced Neuromodulation Systems, Inc.* (E.D. Tex, Sherman Division)(class action securities case; settlement approved)

*Culp v. Gainsco, Inc.*, (N.D. Tex, Fort Worth Division)(class action securities case; settlement approved by Judge Means)

Claxton & Hill, PLLC is currently counsel in a number of other class action and stockholder derivative cases presently pending in state and federal courts within Texas, including *Allegiance Telecom Securities Litigation* (N.D. Tex., Dallas Division; class certified and certification on appeal to Fifth Circuit); *SourceCorp Securities Litigation* (N.D. Tex., Dallas App. 127

Division); *Zix Corporation Securities Litigation* (N.D. Tex., Dallas Division); *Plumbers and Pipefitters Local 636 v. Zale Corporation* (N.D. Tex., Dallas Division); *Centex Corporation ERISA Litigation* (N.D. Tex., Dallas Division); *Clear Channel Communications Derivative Litigation* (255<sup>th</sup> District Court - Houston); *Michaels Stores Litigation* (298<sup>th</sup> District Court - Dallas); *Sabre Holdings Litigation* (236<sup>th</sup> District Court - Fort Worth); and *United Surgical Litigation* (134<sup>th</sup> District Court - Dallas).